

UNITED STATES OF AMERICA

TRADE REPRESENTATIVE

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TRADE POLICY STAFF COMMITTEE

PUBLIC HEARINGS

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THURSDAY

NOVEMBER 21, 2002

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The USTR met in Room 1 at 1724 F Street,
N.W., Washington, D.C., at 2:00 p.m., Carmen Suro-
Bredie, Chairperson, presiding.

COMMITTEE MEMBERS:

CARMEN SURO-BREDIE,	Chair
CATHY NOVELLI,	Member
DOUGLAS BELL,	Member
DAVID BIRDSEY,	Member
COLLEEN HYLAND,	Member
SUSAN RZMENIEN,	Member
GARY MEYER,	Member
DAVID ROTH,	Member
DAN LEAHY,	Member

ALSO PRESENT:

GLORIA BLUE,	Executive Secretary
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P-R-O-C-E-E-D-I-N-G-S

(2:14 p.m.)

CHAIRPERSON SURO-BREDIE: This hearing is held by the Trade Police Staff Committee, an inter-agency body chaired by the Office of the U.S. Trade Representative.

In addition to the USTR, there are representatives from the Departments of Agriculture, Commerce, State, and Treasury, and the U.S. International Trade Commission.

Members of the USTR staff working on this negotiation also will be present.

The subject of this hearing is the proposed negotiation of a free trade area of Morocco. The TPSC is seeking public comment to assist the United States Trade Representative in amplifying and clarifying negotiating objectives for the proposed agreement and to provide advice on how specific goods and services and other matters should be treated under the proposed agreement.

In addition to the testimony we will hear today, interested persons, including persons who

1 participate in the hearing, may send written comments
2 until noon, November 25th, 2002. Written comments may
3 include rebuttal points demonstrating errors of fact
4 or analysis not pointed out in the hearing.

5 The first page of the written comments
6 must specify the subject matter, including, as
7 applicable, the products with HTSUS numbers or service
8 sectors.

9 Under Section 2104 of the Bipartisan Trade
10 Promotion Authority Act of 2002, for agreements that
11 will be approved and implemented through TPA
12 procedures, the President must provide the Congress
13 with at least 90 days' written notice of his intent to
14 enter into negotiations and must identify the specific
15 objectives for the negotiations.

16 Before and after the submission of this
17 notice, the President must consult with appropriate
18 congressional committees and the congressional
19 oversight group regarding the negotiations.

20 Under the Trade Act of 1974, as amended,
21 the President must afford interested persons an
22 opportunity to present their views regarding any

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1 matter relevant to the proposed agreement; must
2 designate an agency or interagency committee to hold
3 a public hearing regarding any proposed agreement; and
4 seek the advice of the U.S. International Trade
5 Commission regarding the probable economic effects on
6 U.S. industries and consumers of the removal of
7 tariffs and non-tariff barriers on imports pursuant to
8 the proposed agreement.

9 In October, after consulting with relevant
10 congressional committees and the congressional
11 oversight group, the USTR notified the Congress that
12 the President intends to initiate free trade agreement
13 negotiations with Morocco and identified specific
14 objectives for the negotiations.

15 In addition, the USTR requested the ITC's
16 probable economic effects advice. The ITC intends to
17 provide this advice on November 28th, 2002.

18 To assist the administration as it
19 continues to develop its negotiating objectives for
20 the proposed agreement, the Chairman of the TPSC has
21 invited written comments and/or oral testimony of
22 interested persons at this public hearing.

1 Comments and testimony may address the
2 reduction or elimination of tariffs or non-tariff
3 barriers on any articles provided for in the HTSUS
4 that are products of Morocco, any concession which
5 should be sought by the United States, or any other
6 matter relevant to the proposed agreement.

7 The TPSC invites comments and testimony on
8 a number of matters that are outlined in my opening
9 statement.

10 Comments identifying as present or
11 potential trade barriers, laws or regulations that are
12 not primarily trade related should address the
13 economic, political, and social objectives of such
14 regulations and the degree to which they discriminate
15 against producers of the other country.

16 At a later date, the USTR, through the
17 Trade Policy Staff Committee, will publish notice of
18 reviews regarding the possible environmental effects
19 of the proposed agreement and the scope of the U.S.
20 environmental review of the proposed agreement and the
21 impact of the proposed agreement on U.S. employment
22 and labor markets.

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1 I would now like to turn to Cathy Novelli,
2 Assistant U.S. Trade Representative for Europe and the
3 Mediterranean, for additional remarks, after which the
4 panel members will introduce themselves.

5 Then we will hear from the first witness,
6 His Excellency Ambassador Aziz Mekouar.

7 MS. NOVELLI: Thank you, Carmen.

8 And welcome to all of you, and thank you
9 for your participation in an exercise that is not only
10 important to developing comprehensive and sound U.S.
11 negotiating objectives, but is part of the
12 administration's strategic engagement with a close
13 friend of the United States.

14 The U.S. has commercial and strategic,
15 economic, and foreign policy interests in negotiating
16 an FTA with Morocco, and FTA will foster improved
17 commercial and market opportunities for U.S. workers,
18 businesses, and investors in Morocco and the north and
19 west Africa. It will stimulate economic growth,
20 improve living standards, and generate higher paying
21 jobs in the U.S. and in Morocco by reducing and
22 eliminating barriers to bilateral trade.

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1 A U.S.-Morocco FTA will support the
2 significant economic and political reforms that are
3 underway in Morocco today and enhance the Moroccan
4 government's efforts to attract new trade and
5 investment and promote sustainable development.

6 Increased trade and investment can help
7 create better jobs for Morocco citizens, and trade
8 liberalization will support this administration's
9 commitment to promote more tolerant, open, and
10 prosperous societies in the Middle East.

11 We are here today to hear your views on
12 how we should approach this negotiation and reach our
13 objectives of enhancing our bilateral trade
14 relationship with Morocco and fostering economic
15 growth in the U.S. and in Morocco.

16 In April 2002, President Bush and King
17 Mohammed VI stated their agreement to negotiate and
18 conclude an FTA between the U.S. and Morocco as
19 quickly as possible. At present we expect to begin
20 negotiations with the Moroccans at the beginning of
21 2003.

22 We will look to negotiate an agreement as

1 quickly as possible consistent with the TPA framework
2 and the complexity of the negotiations.

3 Several key states that are approaching
4 include November 26th, 2002, when Moroccan lead
5 negotiator State Secretary Fassi Fihri will visit
6 Washington, D.C. for pre-negotiation discussions on a
7 framework for the negotiations, the negotiation
8 calendar, and modalities.

9 As Carmen said, November 28th, 2002, when
10 the ITC submits its confidential report to the USTR on
11 the probable economic effects of the FTA on the U.S.
12 economy.

13 January 15th, 2003, when public comments
14 on the environmental review for the U.S.-Morocco FTA
15 are due.

16 During January 2003, we intend to have
17 intensive consultations with Capitol Hill, and we also
18 expect to begin negotiations with the Moroccans in
19 January 2003, subject to calendars and their approval.

20 We hope to conclude these negotiations
21 during calendar year 2003.

22 We are beginning the process of developing

1 our negotiation objectives and positions. This
2 hearing will serve to inform our thinking and insure
3 our understanding of U.S., private, and NGO sector
4 positions.

5 We appreciate the efforts you have made to
6 contribute to this public comment process through both
7 your written comments and testimony. My staff and the
8 interagency team have developed a number of questions
9 in response to the written testimony we've received,
10 and we look forward to hearing your views and replies
11 to questions that we will have.

12 Thank you.

13 CHAIRPERSON SURO-BREDIE: Could I ask the
14 panel to introduce themselves, please?

15 MR. ROTH: Sure. David Roth from the
16 Department of Commerce.

17 MS. RZEMIEN: Susan Rzemien from the
18 Treasury Department.

19 MS. HYLAND: Colleen Hyland from the
20 Department of State.

21 CHAIRPERSON SURO-BREDIE: Carmen Suro-
22 Bredie, Chair of the Trade Policy Staff Committee.

1 MS. NOVELLI: Catherine Novelli, Assistant
2 USTR for Europe and the Mediterranean.

3 MR. BELL: Douglas Bell, Director for
4 North Africa for U.S. Trade Representative's Office.

5 MR. BIRDSEY: David Birdsey, Director for
6 European Regional Affairs, USTR.

7 MR. MEYER: Gary Meyer with the Department
8 of Agriculture.

9 MR. LEAHY: Dan Leahy, Director of
10 External Relations, U.S. International Trade
11 Commission.

12 CHAIRPERSON SURO-BREDIE: Thank you.

13 Then we are ready for the first witness,
14 Ambassador Mekouar. Welcome.

15 AMBASSADOR MEKOUAR: Thank you. Thank
16 you, Madame Chairman, Chairperson.

17 Madame Chairperson, members of the
18 committee, I would like to thank you for the
19 opportunity to testify today on the proposed U.S. and
20 Morocco free trade agreement. We in Morocco strongly
21 believe that the decision made last April by President
22 Bush and His Majesty, King Mohammed VI to pursue an

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1 FTA between our two countries represents a timely and
2 important initiative with one of the United States'
3 best friends and allies.

4 As you all know, the Kingdom of Morocco
5 and the United States of America have a long history
6 of friendship and cooperation. Some 225 years ago, on
7 December 20th, 1777, Morocco became the first country
8 in the world to extend diplomatic recognition to the
9 young American republic that was still struggling for
10 its very survival.

11 In 1789, Morocco also became a signatory
12 to the oldest unbroken treaty in the history of U.S.
13 foreign relations.

14 Since then, Morocco has always stood side
15 by side with the United States, in good as well as in
16 difficult times, and even today Morocco has proven its
17 worth as a full partner in the war against
18 international terrorism.

19 My country's commitment to the strategic
20 alliance with the United States stems from the basic
21 fact that we share and cherish the same values for
22 peace, stability, democratic and free market ideals.

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1 We both want to strengthen our participation in world
2 markets through open trade and investment flows. We
3 both seek to improve social, equity, and equal
4 opportunity as a necessary condition for development
5 and stability of the region.

6 We are both concerned about terrorism and
7 other global issues facing our two countries and the
8 world.

9 We firmly believe that a free trade
10 agreement between Morocco and the United States will
11 bolster the trend of moderation and openness that my
12 country has embraced and provide an important model
13 for other countries in the region.

14 Aside from the political and strategic
15 dimension of our long term and close bilateral
16 relations, an FTA would generate major economic
17 benefits for both of our countries. It would
18 strengthen and expand bilateral commercial ties and
19 create real business opportunities for American
20 workers, companies and farmers. It would restore
21 competitive advantages for the U.S. business key
22 sectors. Key sectors such as telecommunications,

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1 tourism, finance, transportation, energy, and
2 insurance will be opened up to U.S. firms beyond the
3 current levels of market openness.

4 And FTA would also establish greater
5 market opportunities for U.S. exporters in other
6 countries throughout Africa, the Middle East, and
7 Europe. As you know, we have free trade agreements
8 with Europe and with Arab countries and African
9 countries. The Arab countries are today Tunisia,
10 Egypt, and Jordan and, of course, all of the European
11 Union.

12 So Morocco is a strategic launching path
13 to these important regions. Of course, the FTA would
14 help Morocco by fostering its economic growth,
15 increasing the living standards, and creating better
16 jobs for Moroccan citizens. An FTA would promote
17 greater market or enter reforms and help attract more
18 U.S. and other foreign investments.

19 American investment brings technology,
20 jobs, and new business models, management training and
21 high centers in social responsibility. This is
22 essential to our ability to further develop our

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1 economy and achieve our aspiration of entering the
2 ranks of the more highly developed and globally
3 competitive economy.

4 Ultimately, the conclusion of the
5 comprehensive free trade agreement would be the
6 capstone to continuing mutual effort to bring us
7 closely together.

8 Thank you very much for your attention.

9 CHAIRPERSON SURO-BREDIE: Thank you very
10 much, Mr. Ambassador.

11 Our first question will be by USTR.

12 MS. NOVELLI: Mr. Ambassador, first I want
13 to say that we very much value the friendship Morocco
14 has given us over all of these years, and we are very
15 pleased and excited to be launching this endeavor with
16 you.

17 One of your primary goals, as I understand
18 it, is to attract significant investment that will
19 create jobs for both economies, and I was wondering if
20 you could highlight some of the sectors, in
21 particular, that you think would be most attractive to
22 U.S. investors and also to explain whether there will

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1 be opportunity for 100 percent U.S. ownership in those
2 sectors.

3 And sort of a compound question, which is,
4 as you said in your testimony, Morocco can serve as a
5 launching pad. What are the sectors where there have
6 been liberalization with the EU and how does that fit
7 in?

8 AMBASSADOR MEKOUAR: Well, thank you.

9 I think the sectors to start with, the
10 sectors I already spoke about, the telecommunications,
11 tourism, finance, finance, transportation.

12 Finance, we issued a law a few months ago,
13 I think two months ago or three months ago, about
14 banking and insurance companies that can be owned 100
15 percent by foreign investors. This is very important,
16 and all the rest of the economy is mainly open to all
17 of the -- I mean 100 percent owned capital by foreign
18 investors.

19 But coming back to sectors,
20 telecommunications, of course, tourism,
21 transportation, energy, and others. On
22 telecommunications, we liberalized our

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1 telecommunications industry. Now it's open to private
2 capital. The second license has been sold. It's a
3 consortium by a group made of Portuguese, Spanish and
4 Moroccans.

5 Thirty-five percent of the first
6 telecommunication company has been sold to Vivan
7 (phonetic), the French company, and we would be very
8 happy to see American companies coming to that sector,
9 and I'm trying to work on that.

10 On the other side, on the other sectors
11 like tourism, for instance, we have a charter. Last
12 year all of the Moroccan actors in tourism signed the
13 charter about investing in tourism, and the idea is to
14 have ten million tourists by 2010. Today I think that
15 we have something like 2,500,000.

16 Ten million tourists in 2010 means that we
17 need huge investments in terms of capacity, in terms
18 of transportation, and of course, this will be open
19 not only to American investors in the sector of
20 tourism and transportation, but also to American
21 companies selling goods to the industry for tourism,
22 and this is very important.

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1 Energy, we also know that our biggest
2 plant is owned by an American company, CMS Energy, and
3 of course, all of the finance and insurance sector,
4 which was until a few months ago closed to the -- I
5 mean could not be owned by -- more than 50 percent by
6 foreign investors now can be owned 100 percent by
7 foreign investors. This is very important.

8 Of course, you have other sectors, like
9 agriculture, and I think that agriculture is something
10 very important for the American economy. We are
11 importers of grain, and I think that in the future
12 with the free trade agreement, we'll be even bigger
13 importers of American grain, wheat and other grains,
14 corn and others.

15 But also, in agriculture, I think that in
16 Morocco if we get a free trade agreement, we'll have
17 a framework in which the American companies will work
18 and that would be much more at ease in Morocco.

19 In agriculture, we can think that the
20 American companies will come and work in the
21 agricultural sector, not only exporting, but also
22 developing investments in the agriculture sector.

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1 So this is more or less a few ideas about
2 why and how it could be interesting to have an FTA
3 with the Americans for the American companies and the
4 American economy.

5 I think that there was another question.

6 MS. NOVELLI: The EU.

7 AMBASSADOR MEKOUAR: The EU. What?

8 MS. NOVELLI: What sectors you've
9 liberalized in your free trade agreement with them.

10 AMBASSADOR MEKOUAR: With EU. I think
11 high technology, for instance. I think that our
12 association agreement with the EU opens the borders of
13 the EU to all kinds, all industrial products coming
14 from Morocco, all of them, and this is very important.

15 So anything that is manufactured in
16 Morocco can be sold into the European Union without
17 paying any fees. So it Morocco can be a platform to
18 work with the EU, but also with Africa and the Arab
19 countries, and this is one of the main assets of
20 Morocco, is our geographical situation. We are in the
21 crossroads between countries and also because of the
22 economic and political reforms we have been doing in

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1 the last ten years, and I think this is one of the
2 reasons that we have this FTA possible.

3 Thank you.

4 CHAIRPERSON SURO-BREDIE: The next
5 question by the Department of State.

6 MS. HYLAND: Good afternoon. Mr.
7 Ambassador, as you know, labor will be an important
8 are of negotiations and key to attracting new
9 investment into Morocco. Is there anything you can
10 tell us about current efforts at labor reform?

11 AMBASSADOR MEKOUAR: Yes. Well, I have
12 something written here that I can tell you about
13 labor. But what I wanted to tell you is about labor.
14 I don't think that we'll have -- we'll have no
15 problems because all of our agreements comply with the
16 ILO agreements, and everything is made in Morocco
17 respecting the ILO rules.

18 Of course, we have trade unions, and I
19 mean, since independence the first Moroccan
20 institution guaranteed the right to organized trade
21 unions, and we have many trade unions, political
22 parties, and professional organizations.

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1 The right to strike is also recognized in
2 the constitution. So we have all of the rights
3 provided to labor, I mean, to workers, are provided in
4 Morocco.

5 Morocco is also signatory to most
6 international treaties regarding labor treaties. A
7 new labor law is now submitted to parliament and is
8 expected to be passed very soon. It will provide a
9 better framework for both workers and businesses, and
10 this is very important.

11 It would also help adapt the Moroccan
12 labor market to the new global economic environment,
13 all of this in respect of the ILO agreements.

14 Of course, there are concerns about child
15 labor. With regard to child labor, the Kingdom of
16 Morocco has ratified the ILO Convention 138 regarding
17 the minimum age for admission to employment, as well
18 as the ILO Convention 182 regarding the prohibition
19 and the elimination of the worst forms of child labor,
20 respectively, in January 6, 2000 and January 26, 2000.

21 With respect to the Article III of the ILO
22 Convention 182, the Daihair (phonetic), which is the

1 law dated July 2nd, 1947, pertaining to child labor
2 legislation, has prohibited and eliminated the
3 employment of child and the legal requested age.

4 Furthermore, the draft of the new code of
5 labor, which is in final discussion in the parliament
6 and we are expecting it to be adopted in the very next
7 month -- I think three or four months -- takes into
8 account all provisions dealing with child labor and
9 imposes sanctions in case of violation.

10 Furthermore, the Kingdom of Morocco and
11 the International Bureau of Labor have signed on April
12 5, 2000 an agreement aimed at implementing the
13 international program on the eliminating of child
14 labor. In this respect an agenda has been undertaken
15 in close cooperation with IBL and UNDB.

16 And in initial commission, including
17 representatives from public administration unions and
18 private sector has also been set up for the purpose of
19 coordinating projects with UNICEF child labor.

20 CHAIRPERSON SURO-BREDIE: The next
21 question by USTR.

22 MR. BELL: Mr. Ambassador, you've just

1 described many of the steps that Morocco is using to
2 combat the child labor challenge that you face. How
3 do you see the FTA benefitting these efforts to end
4 child labor?

5 AMBASSADOR MEKOUAR: Well, the FTA will
6 enhance the possibility of growth of the Moroccan
7 economy, and it will bring an economical growth in
8 Morocco, will bring the social situation in Morocco to
9 a normality, and normality means that we will have
10 more jobs for the adults and no need for children to
11 work to bring money into their families. So this is
12 one of the benefits of an FTA with the United States.

13 I think that the FTA will really create
14 the framework and will put the American companies more
15 at ease to work in Morocco so that not only the
16 American companies, but it's a strong political signal
17 to the world and the international investors to come
18 to Morocco.

19 So it will boost the Moroccan economy, and
20 boosting the Moroccan economy, it will help very much
21 to apply all of the laws regarding preventing child
22 labor.

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1 We are very much committed in that, and I
2 think that stopping child labor -- we have been making
3 lots of efforts and improvements in that sector, but,
4 of course, an FTA will help on that.

5 Thank you.

6 CHAIRPERSON SURO-BREDIE: The next
7 question by Department of Agriculture.

8 MR. MEYER: Mr. Ambassador, you stated the
9 U.S.-Morocco FTA would restore competitive advantages
10 to U.S. businesses lost as a result of Morocco's
11 association agreement with the European Union. Can
12 you provide figures that illustrate the trade
13 diversion that has come about as a result of the EU-
14 Morocco arrangement?

15 AMBASSADOR MEKOUAR: I have some figures
16 here. I can give you the figures about what happened
17 before and after association agreement with Europe,
18 but what I can tell you already now is that the trade
19 with Europe, the European Union represents 57.9
20 percent of the Moroccan imports and 74.7 percent of
21 Moroccan exports.

22 If you compare it to the United States,

1 the United States represents 5.6 percent of the
2 imports and 3.4 percent of the exports. So you can
3 see the imbalance of the situation between the
4 American situation and the European situation in trade
5 with Morocco.

6 I'm sure that an FTA will give major
7 opportunities to American companies and the American
8 agriculture to enter into the Moroccan market and
9 restore the competitiveness of the American goods in the
10 Moroccan market.

11 You know, today we can, as I said before,
12 the European Union -- the agreement, the association
13 agreement with the European Union opens all of the
14 borders, I mean, the Moroccan borders for the European
15 goods from 2010 on. But already today the fees are
16 very low, and it's not the same for the American
17 goods.

18 So an FTA would be just restoring this
19 competitiveness between Europe and the United States

20 Did I answer?

21 MR. MEYER: Yes. Thank you.

22 CHAIRPERSON SURO-BREDIE: The next

1 question by the Department of Commerce.

2 MR. ROTH: Good afternoon, Mr. Ambassador.

3 One thing that is important to the U.S.
4 government as we move along in this process is a
5 possible environmental impact of the FTA. Does your
6 government have any information on the possible
7 environmental impact of the FTA? And how do you
8 enforce the existing environmental laws in Morocco?

9 AMBASSADOR MEKOUAR: Well, I believe that
10 an FTA with the United States would help to lock in
11 current efforts on improving environment standards and
12 bring about new expertise that would certainly enhance
13 those efforts, but we have been making lots of
14 efforts also in the environment and issuing law on the
15 environment.

16 Morocco is one of the few developing
17 countries where environmental concerns are taken very
18 seriously not only at the government level, but also
19 by civil society, and we have many, many NGOs dealing
20 with environment issues.

21 So this is contributing effectively toward
22 improving environmental standards in Morocco. We've

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1 had the delegation in the beginning of October coming
2 from Morocco and organized by the American Embassy,
3 and they came here, and they explained exactly what
4 has been done in Morocco on the environment issues.

5 And I think it was very useful, and I
6 think that today in Morocco we are abiding with all of
7 the international requirements on the environment, and
8 we are very much concerned on that.

9 An FTA with the United States will help us
10 to improve that and to go forward with this concern.

11 Thank you.

12 CHAIRPERSON SURO-BREDIE: Thank you very
13 much, Mr. Ambassador, for testifying and for answering
14 our questions.

15 AMBASSADOR MEKOUAR: Thank you for having
16 me. Thank you very much.

17 CHAIRPERSON SURO-BREDIE: I'm sure it
18 won't be your last visit to USTR.

19 AMBASSADOR MEKOUAR: Excuse me?

20 CHAIRPERSON SURO-BREDIE: I'm sure it will
21 not be your last visit to USTR.

22 AMBASSADOR MEKOUAR: I'm sure it will not.

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1 (Laughter.)

2 AMBASSADOR MEKOUAR: Thank you.

3 CHAIRPERSON SURO-BREDIE: Our next witness
4 is Bill Reinsch, President of the National Foreign
5 Trade Council.

6 I've been waiting a lifetime for this
7 moment.

8 (Laughter.)

9 MR. REINSCH: I was going to say, I've
10 done this 53 times before congressional committees.
11 This can't be worse than that.

12 CHAIRPERSON SURO-BREDIE: No, we've been
13 on the other side.

14 MR. REINSCH: No, I remember that very
15 well. You have the advantage in contrast to some of
16 the committees I've appeared before in actually
17 knowing what you're talking about, which leads to both
18 informed questions and close scrutiny of testimony.

19 CHAIRPERSON SURO-BREDIE: The floor is
20 yours, Mr. Reinsch.

21 MR. REINSCH: Thank you. Thank you,
22 Madame Chairman.

1 It really is an honor and a pleasure for
2 me to appear before you for the first time, but I'll
3 hope also it's not the last.

4 I'm Bill Reinsch, President of the
5 National Foreign Trade Council. The council's members
6 are leading U.S. companies actively trading and
7 investing around the world.

8 We are also a founding member, along with
9 the Business Council for International Understanding,
10 of the U.S.-Morocco Coalition, a diverse group of U.S.
11 corporations and associations supporting a bilateral
12 free trade agreement between the two nations. My
13 testimony today is on behalf of all three
14 organizations, the council, the BCIU, and the
15 coalition.

16 We believe an FTA in Morocco is in the
17 strong interest of the United States. It will lead to
18 the elimination of bilateral tariff and non-tariff
19 barriers, boost bilateral and regional trade flows,
20 and stimulate economic growth and prosperity.

21 It will lock in and advance major economic
22 reforms in Morocco, restore competitive advantage lost

1 by U.S. exporters as a result of the U.E.-Morocco
2 association agreement, and demonstrate renews U.S.
3 trade leadership.

4 In strengthening U.S. ties with a major
5 developing country and close ally committed to trade
6 liberalization and economic reform as fundamental
7 tenets of development, a U.S.-Morocco FTA will
8 demonstrate to other developing countries the
9 strategic importance and benefits of achieving a bold
10 agenda of multilateral trade liberalization in the
11 WTO-Doha Round negotiations.

12 Finally, pursuing a bilateral FTA
13 strengthens our trade relationship in the context of
14 our overall friendship and alliance with Morocco. It
15 fosters shared values and recognizes Morocco's
16 strategic contributions to overall U.S. policy.

17 Let me elaborate on these points, if I
18 may.

19 Tariff elimination under an FTA would give
20 U.S. exporters significant tariff advantages over the
21 E.U., as well as other competitors. It will level the
22 playing field and increase market access for U.S.

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1 goods and services to Morocco.

2 In addition to the telecommunications and
3 tourism sectors, there are likely opportunities for
4 U.S. firms in the energy, transport, financial service
5 insurance, and environmental and water resources,
6 equipment and services sectors.

7 Additionally, an FTA would provide
8 opportunities to strengthen intellectual property
9 rights protection and support the development of E-
10 commerce.

11 Commodities that would benefit from an
12 FTA, we believe, would include U.S. wheat, feed
13 grains, soybeans, and soybean products. As Morocco
14 grows economically and develops the infrastructure to
15 handle perishable products, we would also anticipate
16 expansion of U.S. meat and processed food product
17 exports.

18 Morocco serves as an important regional
19 headquarters on the continent gateway to North Africa.
20 A stronger Moroccan market for U.S. goods and services
21 strengthens our base in the region as a whole.

22 Since the U.S.-Morocco trade and

1 investment framework agreement was signed in 1995,
2 substantial progress has been made in trade
3 liberalization and economic reform in Morocco. An FTA
4 with Morocco would provide a significant opportunity
5 to further these reforms and insure that they are
6 implemented and not reversed.

7 Morocco has undertaken significant
8 privatization and has liberalized its
9 telecommunications sector. It has also established an
10 ambitious plan to develop the Moroccan tourism sector
11 with the aid of outside investment.

12 There also have been improvements in the
13 transparency of the public procurement process and in
14 the development of a specialized commercial court
15 system.

16 The proposed FTA would support Morocco's
17 commitment to transparency, openness, and the rule of
18 law, and would include increased protection for
19 intellectual property, including more vigorous
20 enforcement against piracy of software and
21 counterfeiting of consumer goods.

22 We also support specific provisions to

1 encourage the development of E-commerce. A U.S.-
2 Morocco FTA will lock in and advance important
3 economic reforms underway in Morocco. In many cases,
4 it will provide the impetus for fully implementing
5 reform laws that are on the books.

6 For example, the FTA would likely provide
7 increased opportunity to insure the full
8 implementation of a new Moroccan law allowing for 100
9 percent foreign ownership in the insurance sector.

10 I have to insert, of course, Madame
11 Chairman, accomplishing all of these objectives
12 depends on the civil negotiators and their ability to
13 produce an agreement that goes down the road that
14 we're talking about. But I think in this case that's
15 certainly an achievable goal.

16 Morocco has already begun implementing a
17 recently concluded agreement with the E.U. which
18 provides preferential tariff treatment for E.U.
19 industrial exports to Morocco, putting American
20 producers at a competitive disadvantage. A U.S.-
21 Morocco FTA will allow the U.S. to offset the E.U.
22 advantage in industrial goods and to compete strongly

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1 against the E.U. in agricultural exports which were
2 largely excluded from the E.U. agreement.

3 It will deepen and expand bilateral
4 commercial ties beyond the current average level of a
5 bit less than \$1 billion in two-way trade flows.

6 Furthermore, it will allow U.S. companies
7 to capitalize on opportunities in Morocco that will be
8 created as a result of the E.U. agreement, such as
9 supplying a likely emerging assembly and packaging
10 industry in Morocco for goods destined for Europe.

11 We encourage the negotiations to leverage
12 U.S. advantage in terms of the E.U.-Morocco
13 association agreement.

14 The Doha agenda of WTO negotiations has
15 revealed the importance of constructive engagement
16 with developing countries in crafting consensus over
17 trade liberalizing measures. The U.S.-Morocco FTA
18 negotiations will expand U.S. ties with an important
19 developing country that supports trade liberalization
20 and economic reform at home as key ingredients of
21 development.

22 This, in turn, will demonstrate to other

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1 development countries the strategic importance and
2 benefits of moving forward with the new WTO round of
3 trade talks. We look to the Moroccan government as a
4 progressive, developing country voice in support of a
5 successful conclusion to the Doha agenda of WTO
6 multilateral trade liberalization negotiations.

7 Morocco has been, and we hope will remain,
8 an important developing country role model on the
9 benefits of opening up its economy in rules based in
10 a transparent manner.

11 The agreement will be the first bilateral
12 free trade agreement to be negotiated entirely under
13 the new trade promotion authority. A well organized
14 and rapidly concluded negotiation will send a strong
15 signal to the world that the momentum for trade
16 liberalization in the United States has been retained.

17 Morocco is one of our strongest allies in
18 the war on terrorism, and a moderate voice in the
19 Muslim world. It hosts the largest voice for American
20 facility in the world, and at a time when many voices
21 in the Arab and Muslim worlds are calling for boycotts
22 against the United States, Morocco is seeking a closer

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1 economic relationship with us.

2 Over the past two centuries, Morocco has
3 proven its commitment and friendship toward the United
4 States many times, starting with its first recognition
5 of the fledgling American republic on December 20th,
6 1777, as the Ambassador mentioned, and continuing
7 today with its cooperation in tracking down and
8 arresting suspected members of terrorist cells.

9 An FTA would be the capstone on a
10 continuing mutual effort to bring the U.S. and Morocco
11 economically closer together.

12 The U.S. and Morocco signed an open skies
13 agreement in 2001, paving the way for closer
14 participation in air cargo links between the two
15 countries, and American investors continue to benefit
16 from the protections accorded under the U.S.-Morocco
17 bilateral investment treaty in effect since 1991.

18 In conclusion, the NFTC, the BCIU, and the
19 members of the U.S.-Moroccan FTA Coalition believe
20 that the swift negotiation and completion of a U.S.-
21 Morocco free trade agreement is in the strong
22 interest, the strong national interest, of the United

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1 States.

2 Thank you for the opportunity to testify.

3 I want to mention that I'm accompanied by Mary Iris,
4 the NFTC's Vice President for Trade and Project
5 Finance, who is here to answer all of the hard
6 questions.

7 CHAIRPERSON SURO-BREDIE: Not so fast.

8 MR. REINSCH: I know you've been waiting
9 for this.

10 CHAIRPERSON SURO-BREDIE: No, we're not
11 going to be cruel. Our first question is from the
12 Treasury.

13 MS. RZEMIEN: Good afternoon, Mr. Reinsch
14 and Ms. Iris. I'd like to ask you what your members
15 currently see as being the biggest obstacles to doing
16 business in Morocco today.

17 MR. REINSCH: Well, first, we're still
18 polling, and what I would like to be able to do at a
19 later point is provide you more detailed information
20 as we get it.

21 But I think at this point the most obvious
22 obstacle is higher tariffs and in some cases just high

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1 tariffs, particularly vis-a-vis the E.U. I think in
2 some sectors -- and, in part, the answer depends on
3 the sector -- in some sectors, particularly services,
4 there are transparency rule of law issues. I think
5 some of the concerns are anticipatory in the sense
6 that we see the Moroccan government moving in the
7 right direction.

8 I mentioned at least one law in the
9 insurance area that we think is a very important step
10 forward. We always have a little bit of nervousness
11 about implementation and making sure that these things
12 actually are followed through on once they're written
13 down and implemented.

14 And we think having a free trade agreement
15 would not only provide an additional impetus to that
16 further implementation and the establishment of
17 further rule of law principles, but also provide
18 mechanisms, more effective mechanisms, for dealing
19 with failures to implement.

20 MS. RZEMIEN: Thank you.

21 CHAIRPERSON SURO-BREDIE: The next
22 question from the Department of Commerce.

1 MR. ROTH: I'd just like to have you
2 expand on that last part. How do you see an FTA with
3 Morocco eliminating some of these obstacles?

4 MR. REINSCH: Well, with respect to
5 tariffs, we just want you to get rid of them.

6 (Laughter.)

7 MR. REINSCH: That's a matter for the
8 negotiations. The NFTC has separately proposed a zero
9 tariff, tariff elimination proposal for industrial or
10 non-agricultural goods, and we certainly would support
11 efforts in this FTA simply, you know, to get rid of
12 them, and we urge the negotiators to do that.

13 With respect to the other issues, I think
14 also, again, it's largely a question of negotiating.
15 We are comfortable with the negotiating objectives
16 that were put into the TPA authority, and, you know,
17 we support your efforts to try to attain those.

18 In our conversations with the Moroccan
19 government and in listening to the ambassador today,
20 it doesn't seem to me that there's going to be a lot
21 of resistance on a number of these points.

22 Do you want to add anything.

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1 MS. IRIS: I guess I would only add that
2 we look forward to a model class agreement being
3 negotiated.

4 CHAIRPERSON SURO-BREDIE: That's the only
5 kind we do.

6 MS. IRIS: Of course.

7 CHAIRPERSON SURO-BREDIE: Okay. The next
8 question is USTR's.

9 MR. BIRDSEY: Your presentation and the
10 Ambassador's, both noted the adverse consequences for
11 U.S. industrial exports after the E.U.-Morocco
12 arrangement. Can you tell us what industry sectors
13 were most keenly hit by this arrangement?

14 MR. REINSCH: Well, the Ambassador, I
15 think, is going to supply some data on that. Do we
16 have any yet? Do you want to mention a particular
17 sector?

18 MS. IRIS: Well, no. I think just the
19 broad statistics really underscore the importance of
20 moving forward to eliminate any disparity in our trade
21 relationships, particularly compared to the European
22 Union. The Ambassador was very eloquent in explaining

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1 the dramatic difference in our relationship
2 economically. So there is a lot of room for growth,
3 and eliminating barriers to trade between our two
4 countries will certainly go a long way in leveling
5 that playing field.

6 MR. REINSCH: As we hear from our members,
7 we'd be glad to supply specifics. Let me make another
8 broader point, too.

9 I think one of the issues here is that
10 this is a country that has historically been oriented
11 toward Europe and a much larger share of their trade
12 has historically been with Europe, particularly
13 France.

14 Clearly, I think that the E.U. association
15 agreement is going to further cement that
16 relationship, if you will, and that one of the most
17 compelling big picture or policy arguments for a U.S.-
18 Morocco FTA is to try to -- is that in a number of
19 ways it will crack that cement. It will create some
20 opportunities for people to look at America rather
21 than to look to Europe, which is the natural place for
22 them to look, and I think that will happen across the

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1 Board.

2 I think you'll see an agricultural impact
3 as well. I think you see an adverse agricultural
4 impact even now because the E.U. is the historic
5 marketplace, and I think one of the things we want to
6 do here is to create institutional structures that
7 will encourage this country, but also the other
8 negotiations, other countries to begin to look to the
9 United States and look across the ocean rather than
10 simply northwards.

11 CHAIRPERSON SURO-BREDIE: Do you have an
12 additional question by USTR?

13 MS. NOVELLI: Just following up on what
14 you were just saying, one of the things that we're
15 trying to think through is assuming that we get a very
16 high quality agreement, what things do you see that
17 either the government or you all would do to make then
18 a reality kind of the business-to-business contacts
19 and the, you know, investment and sort of create what
20 you're describing, which is the cracked cement?

21 Are there things that you have in mind or
22 that we should have in mind when we're trying to

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1 think, you know sort of about the next step and how to
2 set that up?

3 MR. REINSCH: Ah, you want us to actually
4 do something.

5 (Laughter.)

6 MR. REINSCH: Actually that's a very
7 important question because the last thing that we're
8 interested in is having this thing simply be a piece
9 of paper that goes on the books. The whole point of
10 the exercise is to try to establish a meaningful
11 economic relationship which will benefit both of us
12 and promote growth in both directions.

13 The first thing that we are doing, and
14 it's not prospective, is simply the formation of the
15 coalition has a salutary effect because it allows us
16 to or helps us identify companies that either have a
17 present interest in Morocco or have a future interest
18 in doing business in Morocco, and through the network
19 of contacts that we have as part of the NFTC and our
20 more than 300 members, we're in a position, and plus
21 what the BCIU has, which is a different set of
22 membership that does not entirely overlap with ours by

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1 any means; we are collectively able to, you know,
2 bring the issue to the attention of our members and
3 effectively sell the relationship to the extent we can
4 and try to get our members to look at it.

5 Whether they join the coalition or not,
6 and it doesn't cost them anything to join the
7 coalition, but whether they do or not, either way they
8 have looked at the issue. They've thought about
9 Morocco, and one of the things that we will continue
10 to do, of course, as the negotiations go on is keep
11 them apprised of the state of the negotiations to the
12 extent that you interface, and we want to have a two-
13 way flow of information there.

14 And after agreement is reached, you know,
15 we will do our part with our members to encourage them
16 to follow up on their interests through both trade
17 there and increasingly in the case of large American
18 companies which are really our members. Our members,
19 FTC's members tend to be large, multinational
20 companies.

21 Increasingly it's an issue of investment,
22 and we will do our bit to encourage them to visit

1 Morocco and promote investment there, and we'll be
2 working with the Ambassador and the Moroccan
3 government to that end.

4 As we discover things where we think the
5 American government could be helpful, and I'm very
6 familiar based on past experience with what the
7 facilities in the Commerce Department are with respect
8 to some of these issues, export promotion in
9 particular.

10 We'll be back in touch with, you know, the
11 appropriate ones of you to ask you to help us.

12 MR. LEAHY: Carmen.

13 CHAIRPERSON SURO-BREDIE: Yes. Dan Leahy
14 from the ITC.

15 MR. LEAHY: So as not to be lost down here
16 at the end of the table, I just wanted to seek a
17 clarification on the impact of the E.U. association
18 agreement. I think what I've heard both the
19 Ambassador say and now you also the principal impact
20 at this point seems to be not necessarily a diversion
21 of trade, but rather an advantage, an enhancement of
22 the advantage that the Europeans already had in their

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1 trade with Morocco, and therefore, if we are
2 successful in this negotiation, you would be putting
3 American companies more or less back on an even keel
4 in giving them the opportunity to compete.

5 Is that --

6 MR. REINSCH: That was the point I made,
7 and I agree with that. The diversion question is, in
8 part, an empirical one, although I'm not sure how much
9 data there is. When was the E.U. association
10 agreement produced?

11 MR. LEAHY: It's probably not long enough
12 for us to have a lot of --

13 MR. REINSCH: Yeah, I'm not sure there is
14 a lot of data, and I would simply defer to the
15 Ambassador on whatever data that he or his government
16 has on that subject. We don't.

17 We'll continue to talk to our members, but
18 I suspect what we will get will be anecdotal,
19 companies telling us about something that happened or
20 something they lost. As a result, I don't think we'll
21 be able to provide you at this early stage with
22 comprehensive numbers.

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1 MR. LEAHY: Thank you.

2 CHAIRPERSON SURO-BREDIE: Thank you very
3 much, Mr. Reinsch.

4 MR. REINSCH: A pleasure.

5 CHAIRPERSON SURO-BREDIE: Our next witness
6 is David G. Mengebier, or perhaps there's another
7 pronunciation, which we will hear soon, Senior Vice
8 President, Public and Governmental Affairs, CMS Energy
9 Corporation.

10 MR. MENGEBIER: Thank you.

11 It's Mengebier.

12 CHAIRPERSON SURO-BREDIE: That's what
13 happens to French names.

14 MR. MENGEBIER: Bengebier.

15 Madame Chair and members of the committee,
16 I want to thank you for the opportunity to testify on
17 behalf of CMS Energy Corporation concerning the
18 proposed United States-Morocco free trade agreement.

19 By way of background, CMS is an integrated
20 energy company headquartered in Dearborn, Michigan,
21 with operations in utilities, pipelines, power
22 generation, and energy marketing. We have about 15

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1 percent of our assets in international markets. The
2 remaining assets are here in North America.

3 In Morocco, CMS operates and is a 50
4 percent owner of the Jorflas Far Power Plant located
5 in the Province of El Jadida at the Port of Jorflas
6 Far. At 1,356 megawatts, and with a project value of
7 approximately \$1.5 million, Jorflas Far is the largest
8 independent power project on the continent of Africa.
9 Jorflas Far supplies approximately 65 percent of
10 Morocco's base load energy demand and approximately 35
11 percent of the country's total electricity supply.

12 The facility was completed and Unit 4
13 commenced commercial operations in February 2001. As
14 a result of its investment in Jorflas Far, CMS is the
15 largest American investor in Morocco. While we have
16 had energy infrastructure investments in as many as 22
17 countries at various times, we have found our
18 experience in Morocco to be among the best we have had
19 anywhere in the world

20 Morocco is a place that not only welcomes
21 foreign investment, but also works closely and
22 cooperatively with investors to insure that what

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1 happens in practice matches what was promised during
2 the development of the project.

3 In other words, the investment climate is
4 hospitable and the operating environment stable, and
5 where changes or adjustments have been required in the
6 legal, regulatory, or policy regime, they have been
7 developed in a cooperative and transparent manner.

8 We, in turn, have tried to establish
9 ourselves as partners in Morocco's growth and
10 development. In practical terms, this means we have
11 gone above and beyond the requirements of our
12 contracts in order to help strengthen the Moroccan
13 economy through such actions as adjusting the
14 financial structure of the project to account for
15 fluctuations in currency rates, enabling the
16 reinvestment of significant resources into Morocco's
17 economy.

18 We also have assisted in the development
19 of the Jorflas Far Industrial Park and the effort to
20 establish an area as a regional hub for manufacturing,
21 training, and exports.

22 Independent analysis suggests that

1 consummation of these efforts will create more than
2 \$21 billion in economic activity and create more than
3 230,000 jobs in the next ten years.

4 We also have undertaken charitable
5 contributions to educational, social and health
6 related causes, including substantial multi-year
7 commitment to the Morocco Fulbright Program.

8 Let me turn and talk a little bit about
9 how we see FTA impacting our presence in Morocco and
10 the country itself. In our opinion, the proposed free
11 trade agreement will do a great deal to pave the way
12 for expanded levels of trade and investment from the
13 United States, which will do more than just sustain
14 jobs, promote exports, and increase revenues for U.S.
15 firms.

16 Based on our experience, we think the type
17 of investment that will come from the United States
18 will do a great deal to strengthen the Moroccan
19 economy and to help make a better life for the
20 Moroccan people.

21 It should come as no surprise to anyone to
22 say that labor and environmental concerns have

1 recently emerged as among the most controversial
2 considerations of any trade debate. If our experience
3 is any barometer, however, the type of growth that
4 will occur in Morocco as a result of this treaty can
5 be managed in a way that mitigates these concerns.

6 On the environmental side, CMS has worked
7 closely with Moroccan authorities, our lenders, and
8 other affected parties to implement world class
9 standards on water quality and air emissions. We have
10 worked hard to develop major recycling programs,
11 including a successful effort to recycle 50 percent of
12 the fly ash from the plant for use in concrete
13 production, the remaining 50 percent of which is
14 deposited in a world class environmentally friendly
15 storage facility and could be recycled as well.

16 In addition, we have collaborated with
17 local officials and institutions to implement strict
18 environmental training, compliance and reporting, and
19 to increase environmental monitoring in the area, and
20 education at the local university.

21 As far as labor is concerned, the project
22 we are involved with is one that helps to meet the

1 basic infrastructure requirements of the Moroccan
2 people. So there is no concern that we are
3 transferring jobs that would otherwise be available to
4 U.S. citizens. Our plant in Morocco helps to sustain
5 jobs for our personnel in Michigan and elsewhere and
6 has created jobs and a market for the goods of our
7 U.S. suppliers.

8 We have taken steps to insure that the
9 types of jobs we have created in Morocco are paying
10 well, include rigorous training and education
11 programs, and provide substantial benefits to our
12 Moroccan employees.

13 We are more than pleased with the quality
14 of the personnel we have hired in Morocco, and we
15 believe we have created a quality work force and an
16 excellent work environment that can be sustained
17 through the project.

18 Morocco still has major remaining
19 infrastructure requirements. Accordingly, we believe
20 to the extent the FTA encourages similar investments
21 by other American firms, these will accelerate the
22 same trends in the labor market.

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1 Since the Jorflas Far project already is
2 complete, the implementation of the FTA will not quite
3 have the effect on CMS Energy's investment, as would
4 be the case if we were beginning to contemplate
5 construction.

6 The major equipment and components that
7 were used in the construction were brought in under an
8 exemption from import duties that we arranged with the
9 Moroccan government, which expired in September 2002.
10 We're in the process of negotiating an extension of
11 that exemption up to the specified dollar amount,
12 which equates to about five additional years.

13 While we do not anticipate the FTA will
14 have an impact on our exempt status, we want to be
15 certain that the negotiations and the text of the
16 agreement itself do not damage our interests with
17 respect to the exemption.

18 Apart from the components, parts and
19 equipment already in place, Jorflas Far imports a
20 significant amount of goods and services from Europe
21 and the United States on an annual basis. We estimate
22 that we will import approximately \$8 million from

1 Europe and \$2 million from the United States annually
2 to support our investment.

3 While the goods are covered under our
4 exemption, the services are not, and hence are subject
5 to as much as a 42 percent customs duty and a ten
6 percent withholding tax.

7 We would, therefore, encourage that the
8 FTA include specific coverage of energy services and
9 technical consultations, including operations and
10 maintenance from the United States. We are still in
11 the process of studying our supply chain and
12 determining how much of our supply that currently
13 comes from Europe could be sourced instead from the
14 United States after the FTA takes effect.

15 That said, we are confident that tariff
16 reductions on the goods and services currently
17 supplied from the U.S. will lower our costs and will
18 make other U.S. goods and services that we currently
19 procure from Europe far more competitive.

20 Thank you for your time and interest, and
21 I'm happy to answer your questions.

22 CHAIRPERSON SURO-BREDIE: thank you very

1 much.

2 The first question by USTR.

3 MS. NOVELLI: Thank you very much.

4 My question is you were saying that you
5 didn't think the FTA would have a big impact on your
6 existing plant or at least on the goods side, but more
7 maybe on the services side. Wouldn't FTA have any
8 impact on a decision, for example, if you wanted to
9 expand or use that as a launching pad to do other
10 things, either, you know, through the web of
11 relationships that Morocco has with Europe or other
12 Arab countries?

13 MR. MENGEBIER: CMS is not planning on
14 making any new investments in Morocco. This doesn't
15 have anything to do with the successful relationship
16 and our operating experience there. It has to do with
17 the fact that we are embarking on a new business
18 strategy, which is more focused on our core utility
19 business here in North America.

20 But I would say had we planned on
21 expanding Jorflas Far or making other energy
22 infrastructure investments either in Morocco or in the

1 region, I think certainly the FTA would be a
2 significant incentive and enhance the competitiveness
3 of the development of these projects.

4 MS. NOVELLI: Can I ask one other
5 questions?

6 CHAIRPERSON SURO-BREDIE: Yes.

7 MS. NOVELLI: I just had also a question
8 about environment. You elaborated a great deal on all
9 of the things you've done. Could you compare the
10 situation when you came in to the situation currently
11 in terms of environment?

12 MR. MENGENBIER: CMS Energy is the parent
13 of Consumers Energy Company, which is Michigan's
14 largest electric and gas utility. We've been in the
15 business for more than 100 years. A large part of our
16 power plant fleet is coal fired. So we have decades
17 of experience in air missions, water quality, and the
18 disposal particularly of fly ashes, which I refer to
19 in my testimony.

20 What we were able to do when we came to
21 Morocco was basically bring that experience and the
22 expertise that we learned in operating power plants

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1 for years in Michigan and build a world class fly ash
2 recycling center, and also as I mentioned, use 50
3 percent of the fly ash as an ingredient in aerated
4 cement.

5 So while I can't comment on the
6 environmental conditions before CMS arrived in
7 Morocco, I would say that I think we did make a
8 substantial contribution both on the water quality and
9 air emissions issues because of the long experience
10 we've had with Clean Air, Clean Water Act compliance.

11 CHAIRPERSON SURO-BREDIE: The next
12 question is by Department of State.

13 MS. HYLAND: Hi. You mentioned that you
14 currently import significant goods and services from
15 the European Union, and this is a multiple part
16 question, but are there special benefits you receive
17 from the E.U. that cause you to favor that?

18 And are transportation costs factored into
19 this?

20 And you've already said this, but it might
21 bear repeating, is what would you need from an FTA
22 with the U.S. to help you direct more of that towards

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1 the U.S.?

2 MR. MENGENBIER: I think one of the reasons
3 that we have a rather large disparity in the amount of
4 goods and services we import from Europe versus the
5 United States is because of the free trade agreement
6 that the European Union has with Morocco, and it does
7 give their products and services -- their products --
8 excuse me -- a competitive advantage in terms of
9 pricing over U.S. goods and services.

10 So I think if we had a U.S.-Morocco FTA,
11 then that disparity in the competitiveness of European
12 products over U.S. products would be eliminated.

13 And I was talking to our plant manager
14 yesterday about this issue, and he said they would
15 love to be able to take advantage of more U.S.
16 produced goods and services, but because of the
17 competitiveness issue, the advantage that the FTA
18 between Europe and Morocco gives European goods, it's
19 difficult.

20 Nonetheless, sometimes we do hire U.S.
21 contractors as consultants to provide various
22 technical engineering consulting services to the

1 company simply because those are the best to be had
2 around the world.

3 But the other question that you had was
4 how could FTA be structured to make these types of
5 things more competitive, and certainly the key for CMS
6 Energy and our investment in Morocco is to insure that
7 services are contemplated as part of the FDA.

8 CHAIRPERSON SURO-BREDIE: Department of
9 Commerce.

10 MR. ROTH: You mentioned some of the
11 environmental steps you've taken. Are there other
12 areas of law or regulation pertaining to CMS
13 operations in Morocco that should be modified to bring
14 them into conformity with international norms, whether
15 those be environmental or not?

16 MR. MENGENBIER: Yeah, I know your question
17 is not limited to environmental issues. I also
18 referred in my testimony to, you know, various labor
19 requirements, and as I said in my testimony, I believe
20 that our experience with Morocco's labor laws has been
21 very favorable. We found that the work force has been
22 really immanently experienced and trainable. When

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1 there needs to be training, we've had an excellent
2 operating record at Jorflas Far. The work force there
3 is extremely conscientious.

4 And so I think from the labor standpoint
5 it's been a very good experience as well. On the
6 environmental side, this project and every other
7 project that CMS builds complies with all of the local
8 host country's environmental laws, as well as other
9 laws that are on the books, including World Bank air
10 and water requirements.

11 So from our experience in the energy
12 sector in Morocco, we haven't had any experience in
13 really those two major issues.

14 I'd be happy to provide some additional
15 information to this committee about our experience
16 with other types of laws and regulations in Morocco,
17 but those are the two that I'm particularly aware of.

18 MS. NOVELLI: What about banking and
19 financing? When you were starting your project and
20 the Ambassador was referring to some changes that are
21 happening now, have you experienced any issues there?

22 MR. MENGEBIER: No. This was a

1 complicated agreement when you have a one and a half
2 billion dollar energy infrastructure project, and part
3 of the plant was already built and was owned and
4 operated by Morocco's utility. You can imagine the
5 complexity of the banking and the financing involved.
6 I believe there were over 20 banks around the world
7 that participated in the development of the project,
8 finance of this project.

9 And not being a project finance expert, I
10 can't get into a lot of detail about it other than to
11 say from the little I know about it, I know it was a
12 really impressive job.

13 Again, my just anecdotal experience is
14 that with respect to the involvement of the government
15 of Morocco, ONE, the Moroccan national utility, and
16 the banks that we dealt with, we didn't have any
17 difficulties in those areas.

18 MR. LEAHY: Just one quick follow-up
19 question on services. You were stressing how
20 important that would be in an agreement. You
21 mentioned a 42 percent customs duty on services. How
22 does that work? Is that on the value of the contract

1 or --

2 MR. MENGEBIER: Yeah, it's not just on
3 services. It's on products, too with respect to the
4 importation of U.S. made products. So it applies to
5 both products and services.

6 MR. LEAHY: So that reference was to the
7 products.

8 MR. MENGEBIER: Right, and services aren't
9 covered, as I understand it, by the trade agreement
10 between Morocco and Europe. So on that side, then
11 there isn't any comparative advantage.

12 But we're talking, as I mentioned in my
13 testimony about technical engineering services, and I
14 have a whole list, I think, of the types of services
15 that we're talking about that we would like to see
16 contemplated.

17 MR. LEAHY: Thank you.

18 CHAIRPERSON SURO-BREDIE: I had an
19 additional question. I was wondering if it would be
20 possible for your company to provide if you wish on a
21 business confidential basis an outline of the
22 exemption that you have with Morocco so that we

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1 understand exactly its dimensions --

2 MR. MENGENBIER: Okay.

3 CHAIRPERSON SURO-BREDIE: -- since you're
4 cautioning that we should not have a problem with it.

5 MR. MENGENBIER: Sure, and I think that I
6 appreciate that request from the committee. And I
7 think we can probably provide the committee that
8 information.

9 CHAIRPERSON SURO-BREDIE: You can talk to
10 Gloria Blue, and she will give you how to send it to
11 us.

12 Thank you. She's sitting right there.

13 MR. MENGENBIER: Okay.

14 CHAIRPERSON SURO-BREDIE: Are there other
15 questions?

16 (No response.)

17 CHAIRPERSON SURO-BREDIE: No? Then thank
18 you very much.

19 MS. IRIS: Thank you very much.

20 MR. MENGENBIER: And I just want to say how
21 much I appreciate the opportunity to testify today and
22 also the work that you've put in already and the work

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1 that's in front of you. As you can tell, CMS Energy
2 is an unabashed fan of Morocco. It has had a very
3 positive experience there. So we're excited about
4 FTA.

5 We've been involved in a lot of activities
6 to promote economic development and U.S. investment in
7 Morocco in the years that we've been there, and I
8 think FTA is going to make a substantial contribution
9 to that.

10 So thank you.

11 CHAIRPERSON SURO-BREDIE: Thank you very
12 much.

13 Our next witness is Laura Lane, Vice
14 President, International Public Policy, AOL Time
15 Warner, Inc.

16 Welcome back.

17 MS. LANE: Thank you.

18 Madame Chairman and members of the
19 committee, I want to thank you on behalf of AOL Time
20 Warner for the opportunity to speak to you today about
21 the proposed U.S.-Morocco free trade agreement.

22 On a very personal note I want to say how

1 much AOL Time Warner appreciates all that the U.S.
2 negotiators are doing for our company and other U.S.
3 companies spanning the globe going from Singapore to
4 Chile, to Geneva, to advance U.S. interests.

5 And we know that you're a small but mighty
6 team, but we really appreciate the dedication, the
7 commitment, the hard work, and the fact that there's
8 always constant coordination with companies to make
9 sure that our interests are advanced, and our company
10 takes note and appreciates it.

11 AOL Time Warner is the world's leading
12 media and entertainment company. Our businesses
13 include interactive services, cables systems, filmed
14 entertainment, television networks, music, and
15 publishing. We're Warner Brothers. We're Warner
16 Music. We're HBO. We're CNN. We're Time-Life.
17 Those are just some of the brands that represent the
18 interests of our company.

19 The ability of AOL Time Warner to advance
20 it s international business objectives depends on the
21 creation of a global, regional, and country specific
22 environment that allows us to invest in, produce,

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1 distribute, and sell the content, technologies, and
2 services around the world.

3 And international trade negotiations are
4 an important means for creating that environment. AOL
5 Time Warner strongly supports the negotiations with
6 Morocco and the ultimate creation of a U.S.-Morocco
7 free trade agreement.

8 On a very personal note, Morocco is very
9 dear to our company. Sixty years later after the
10 making of one of the biggest classics of all time,
11 Casa Blanca, there's a line from the movie that says,
12 "This is the beginning of a beautiful friendship."
13 For us that friendship has been longstanding, and we
14 see the negotiation of a free trade agreement just a
15 natural progression in that wonderful friendship.

16 Morocco is a country that has been a great
17 supporter of our industry sector, especially in the
18 area of film production. Morocco's trade policies
19 have helped us to produce high quality movies in
20 Morocco and really should serve as an example to other
21 countries' treatment of the audiovisual sector. In
22 this area as well as more broadly, the U.S.-Morocco

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1 FTA can help set the standard for other countries to
2 follow regionally and within the WTO. And everyone
3 knows we need more examples like that.

4 More specifically, we believe that the
5 elimination of tariffs and non-tariff barriers to
6 trade between U.S. and Morocco will be crucial to
7 obtaining the positive trade flows and stimulating the
8 economic growth and prosperity between both of our
9 economies.

10 Equally important, an FTA between the U.S.
11 and Morocco will really serve as an important example
12 to other developing countries, demonstrating that
13 commitments to trade liberalization and internal
14 economic reform are key ingredients to achieving a
15 well functioning and mutually beneficial trade
16 relationship in what is becoming an increasingly
17 interdependent and interconnected environment,
18 particularly in the media, AV, and tech sector.

19 Before I talk more about the kinds of
20 commitments that AOL Time Warner would like to see
21 incorporated into the framework of a U.S.-Morocco free
22 trade agreement, let me briefly commend Morocco on its

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1 accomplishments during the last few years.

2 Morocco has made significant progress since
3 the signing of the U.S.-Morocco trade and investment
4 framework agreement in 1995. We believe the Moroccan
5 government's trade liberalization and reform policies
6 have laid a solid foundation on which we can now build
7 to create the kind of framework we need to see in the
8 free trade agreement we're here to discuss today.

9 For example, Morocco has taken the crucial
10 steps of creating a transparent and well functioning
11 judicial system, which is a prerequisite for any
12 company doing business around the world today.

13 AOL Time Warner, and I'm certain that many
14 of the colleagues of mine in this room would agree,
15 believe that FTAs between our two countries is a
16 logical progression from the U.S.-Morocco TEFA
17 (phonetic) arrangement that's governed our trading
18 relationship up until now.

19 And we hope that an FTA will solidify and
20 further Morocco's reform efforts and continue to
21 foster the kind of close relationship we've developed
22 over the years with this important ally, friend, and,

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1 most importantly, fan of the movie industry.

2 There are, however, problems in the area
3 of intellectual property right protection that need to
4 be addressed before concluding any agreement. Piracy
5 of American music in the Moroccan market, for example,
6 is estimated at 95 percent, with the pirate market
7 being controlled by a small number of families or
8 organizations.

9 These major pirates together are
10 responsible for the manufacturing and distribution by
11 our estimates of more than 70 percent of the total
12 market for pirated music in Morocco. Strong
13 enforcement action has to be taken immediately
14 against this rampant illegal activity in order to
15 garner the support that this agreement would deserve
16 from Congress because without that kind of political
17 support from the American business community, we don't
18 see the agreement being able to go forward.

19 Fully believing that Morocco will do all
20 it can to combat the piracy and insure results, let me
21 outline briefly the kinds of commitments that AOL Time
22 Warner would like to see incorporated in a Morocco

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1 free trade agreement.

2 As you all very well know, AOL Time
3 Warner, like any other business, is heavily dependent
4 on a system that allows goods and services to move
5 freely around the world. This holds true whether
6 we're on location shooting a movie, which we're doing
7 right now again in Morocco, and consequently needing
8 to ship, you know, the expensive production equipment,
9 the props, the costumes, or we are actually selling,
10 you know, exported finished films or music ready for
11 the enjoyment of local consumers.

12 In both scenarios, the goal at the end of
13 the day is the same. That is to provide the consumers
14 with the high quality products that we're known for at
15 a competitive price. For us to be able to provide
16 those kinds or that kind of entertainment and those
17 kind of services, the movies, the music, the magazines
18 or the interactive services, it's necessary that we
19 not be burdened by the additional costs imposed by
20 tariffs or other duties, or that our operations aren't
21 hindered by any anti-competitive and discriminatory
22 practices in foreign markets.

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1 So specifically for goods, we ask Morocco
2 to make zero tariff commitments in the following broad
3 categories. We need zero tariffs on the equipments
4 that we need to build our networks that allow for our
5 interactive services to run smoothly.

6 We also need it on the devices that
7 consumers depend on to access our services, on the
8 hand held devices, on the computers, and as I
9 mentioned before, tariff free movement of the
10 production equipment necessary to make our products,
11 such as recording equipment and cameras or the props
12 and costumes needed to tell the stories that we tell
13 through our films.

14 We need zero tariffs on films, tapes,
15 compact disks, and other carrier medium on which we
16 record our content.

17 We also ask that Morocco participate in
18 the information technology agreement.

19 Equally important is a commitment that
20 customs valuation be based on the value of the carrier
21 medium, particularly for media products.

22 For services, we're asking that Morocco

1 provide a fully and nondiscriminatory market access
2 in the following areas that are important to a high
3 tech multimedia company like ours: basic value added
4 telecommunications services, computer services, print
5 media and publishing services, film and home video
6 entertainment promotion, production, distribution, and
7 advertising services, because all of these are
8 important to creating the kind of environment in which
9 the movies, the music, and the information and kinds
10 of interactive services can flourish.

11 As the world's leading media company, we
12 also need strong intellectual property protection
13 worldwide. We believe that our consumers demand the
14 compelling content, be it Harry Potter or an
15 interactive textbook. Good content fuels the creation
16 of a new distribution business, and the innovation of
17 new products and equipment.

18 And the continued availability of high
19 quality content depends in this digital age on the
20 ability to protect that content from piracy both on
21 line and off line. So we really urge Morocco to join
22 in making the kind of high class commitments that

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1 we've seen others making now, commitments in the area
2 of intellectual property right protection that go
3 beyond TRIPS (phonetic).

4 You know, the TRIPS agreement provisions
5 were based on technology in place in the early 1990s.
6 The world has moved on, and so we really need
7 commitments that include, you know, copyright
8 protection, for example, consistent with U.S.
9 standards and international trends.

10 We also want to see them make commitments
11 that fully implement and extend the protection
12 provided in the WIPO Internet treaties, including
13 effective prohibitions on the circumvention of
14 technological production measures.

15 We also want to see them make commitments
16 on limitations on ISP liability for copyright
17 infringement consistent with what we've got here in
18 the U.S. with the Digital Millennium Copyright Act.

19 And we need them to make commitments to
20 effectively enforce those improved substantive
21 standard of protection through quick and decisive
22 action by enforcement authorities and with strong

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1 remedies and deterrent penalties imposed by the
2 judicial branch in practice.

3 Given that we're moving into a digital
4 age, we also urge Morocco to take on commitments like
5 those under discussion with Singapore and Chile where
6 we commend the U.S. government for the really high
7 standard commitments that were seen coming out of the
8 particularly singapore negotiations on
9 telecommunications, electronic commerce, and digital
10 products.

11 In summary, the negotiations with Morocco
12 represent an incredibly valuable opportunity for both
13 our countries to achieve a high standard free trade
14 agreement that includes commitments for the 21st
15 Century.

16 I really appreciate the time that you've
17 given us to be able to talk about the value that this
18 agreement holds for the United States and Morocco, and
19 I look forward to taking any questions.

20 CHAIRPERSON SURO-BREDIE: Thank you very
21 much.

22 Our first question will be by the

1 Department of Agriculture.

2 MR. MEYER: You picked --

3 MS. LANE: Wow, Agriculture. this is a
4 market segment I didn't know we had in this.

5 MR. MEYER: Well, we have to listen to
6 videos, watch videos and listen to tapes as well.

7 You pegged piracy of music, I guess, CDs
8 and tapes at 95 percent. Could you speak to the
9 quality of those pirated products? Are they digital
10 or how does that work?

11 MS. LANE: What we see is very high
12 quality products being made in that market, and it's
13 because of those high piracy levels that we are often
14 reluctant to go into the market and provide more of
15 our product because we're concerned about not being
16 able to protect, you know, the investment that we've
17 made in developing our own content.

18 And so we really need to work in
19 partnership with the government to be able to crack
20 down on what is, like I said, very high quality
21 product being made. So that we can go in and work in
22 partnership with local companies to distribute the

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1 legitimate product because the piracy takes its toll
2 on, you know, what we're willing to do as far as
3 further investments.

4 It also takes its toll on our ability to
5 be able to provide consumers not just in Morocco, but
6 around the world with access to products at low cost
7 because whenever our products are pirated, that adds
8 to our cost overall. And so we really need to see
9 that kind of cooperative partnership with the
10 government to crack down on the piracy so that we can
11 be encouraged to invest and obviously provide
12 consumers with low cost products that they seek to
13 meet the consumer demand, which we recognize now is
14 being met by high quality pirated goods.

15 CHAIRPERSON SURO-BREDIE: Treasury.

16 MS. RZEMIEN: Do you foresee the need for
17 special legislative fixes beyond WIPO implementation,
18 such as optical disk licensing laws, for example, to
19 deal with the piracy problem, or is enforcement of
20 existing laws the weak point in Morocco?

21 MS. LANE: Let me take it from a couple of
22 different perspectives. AOL Time Warner's perspective

1 on a lot of the negotiations that are underway, we see
2 them as opportunities to create strong allies for very
3 high levels of protection that go beyond the minimums
4 that have been set in the WTO, and from our
5 perspective, we see it very valuable to achieve levels
6 of commitments that go beyond the TRIPS agreement.

7 And so to the extent that there are ways
8 to achieve those higher levels of commitments, we
9 would like to work through the course of the
10 negotiations to solidify those in an agreement that
11 then can be, in turn, used as building blocks within
12 other regional negotiating context or even within the
13 WTO at a later date.

14 So from that perspective, we have been
15 obviously working very closely with negotiators in the
16 context of the Singapore negotiations and the Chile
17 negotiations to build in the additional protections,
18 and we would welcome, you know, working with the
19 Moroccan government on the possibility of creating
20 those higher standard commitments, particularly in the
21 area of optical disk protections.

22 We are obviously working on a company

1 specific basis with countries around the world to work
2 with them to help, you know, develop the laws and set
3 up the legal frameworks, as well as the enforcement
4 mechanisms to address those kinds of piracy problems.

5 To the extent that those kinds of
6 disciplines can be incorporated into free trade
7 agreements, we'd wholeheartedly support them.

8 MS. RZEMIEN: Carmen, can I have a follow-
9 up?

10 CHAIRPERSON SURO-BREDIE: Yes.

11 MS. RZEMIEN: You mentioned in your
12 testimony that in the area of customs valuation that
13 the value should be based on the carrier medium.

14 MS. LANE: Un-huh.

15 MS. RZEMIEN: Could you explain what that
16 means in layman's terms?

17 MS. LANE: Yeah. We have a lot of
18 problems around the world, and without naming specific
19 countries, which I could do, but the subject is
20 Morocco here; we have problems where whenever we
21 produce a movie or music, we have masters that we
22 then, in turn, want to ship into a country and then

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1 duplicate to meet local demand. It's a lot more cost
2 effective to do things that way, and it also
3 contributes to developing the distribution networks in
4 that country.

5 A lot of times many countries around the
6 world, the United States, the European Union, and a
7 number of countries all do it the same way. They say
8 the value of that master being brought in is based on
9 the value of the CD or whatever the medium is that
10 carries that content.

11 And it's not based on the projected
12 royalties from, you know, the Harry Potter that's the
13 content stored on it because when customs valuation is
14 based on projected royalties, you can guess that
15 oftentimes you are faced with customs officials who
16 have very subjective interpretations about what the
17 projected value of that movie is.

18 And of course, we love the success of
19 movies like Harry Potter, but wouldn't want to be
20 paying customs duties on the basis of projects that we
21 don't know yet and obviously would like to limit it to
22 the value of the carrier medium.

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1 A number of countries already do this.
2 We'd like to see Morocco join in and become a good
3 example for others to do it the same way, and so we
4 see this as an important precedent that we hope can
5 be, in turn, incorporated into the Free Trade
6 Agreement of the Americas, incorporated in, you know,
7 significant disciplines within the WTO.

8 MS. RZEMIEN: Thank you.

9 MS. LANE: And we think Morocco can do
10 that.

11 MS. RZEMIEN: Thank you.

12 CHAIRPERSON SURO-BREDIE: USTR.

13 MR. BIRDSEY: You mentioned that
14 specifically the piracy of American music products.
15 To what extent is film and software piracy a problem?

16 MS. LANE: I can't speak to the software
17 piracy only because we give our software away free to
18 AOL members, but as far as the movie products, I can
19 speak for AOL Time Warner. We have very limited
20 distribution. I think it is a function of the fact
21 that it is such a high pirate market.

22 If you can produce high quality music CDs,

1 you can produce high quality movie DVDs or CDs, and so
2 there is limited distribution there, and we didn't
3 have numbers available. The Motion Picture
4 Association of America has piracy units around the
5 world to tabulate those figures, and they weren't
6 readily available.

7 We know though that in the calculations
8 about how much product we're going to ship into any
9 given market we do look at some of the piracy trends,
10 and it does affect our decisions on how much product
11 we're going to distribute and what kind of licensing
12 agreements we're going to do with local partners.

13 But as I said, we think Morocco, just like
14 Jordan, has it in it to strengthen its enforcement
15 mechanisms and to strengthen its laws, and has, we
16 believe, the government commitment to do that that we
17 think could really set a model for others in the
18 region, just like Jordan did, for example, in the
19 Middle East when it really strengthened its copyright
20 and patent protection laws.

21 We'd like to see Morocco serve that same
22 role among its regional partners and demonstrate that

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1 if you provide strong intellectual property right
2 protection, you know, growth, investment and increased
3 market opportunities will follow

4 MS. NOVELLI: Just following up on that,
5 Laura, if you could say, you know, what are the
6 important things that you all would look at in seeing
7 Morocco an attractive place to do business in? How
8 could we -- I mean, you've outlined the things, you
9 know, services, commitments in FTA, and IP, but I
10 mean, are there any environment -- "environment," I
11 don't mean that in the classic sense, but sort of the
12 ambiance -- that we could improve either through
13 technical assistance associated with the FTA or
14 obligations in the FTA?

15 MS. LANE: Just to restate some of the
16 things I said in here, I mean, Morocco is one of the
17 most beautiful countries. Directors and producers
18 choose Morocco for a lot of the locations for our
19 filming because of the incredibly beautiful scenery,
20 but it's more than just that.

21 We don't just, you know, shoot films in
22 beautiful locations. We go to places where the

1 investment environment is a positive one, where the
2 government works with us to address the needs of
3 putting on a big film production, for example.

4 And so from that perspective, they're
5 already created an environment that welcomes our
6 investment, that really facilitates the movement of
7 our people. You know, we have to move people in and
8 out for the production of some of these films.

9 Allows for the quick movement of goods,
10 which is important in the making of a film, but
11 translates into almost any other, you know, service
12 sector for the distribution of goods.

13 With that said, some of the other areas
14 where, you know, in other areas where we would, I
15 think, look favorably on pursuing investments in any
16 country, where like Morocco, for example, has made
17 tremendous strides in the area of telecommunications
18 liberalization; in this kind of service sectors,
19 highly regulated service sectors, it's really
20 important to provide the technical assistance to
21 insure that the regulatory structures are in place to
22 promote an open and competitive telecommunications

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1 sector because from the perspective of our interactive
2 services, like AOL, we face a lot of barriers in
3 markets around the world because the regulators, maybe
4 they've cleaned the market up, but the regulators
5 aren't capable of insuring that that open access is
6 one that allows for true competition.

7 And so given the, you know, very forward
8 looking policies that I know the Moroccan government
9 has adopted with respect to telecommunications
10 liberalizations, I know that there would be value in
11 providing technical assistance with respect to
12 insuring a competitive regulatory environment for
13 value added telecommunications services, for example.

14 In the area of intellectual property right
15 protection, it's not just important to get the laws
16 right, but it's also important to help train the
17 judges or the police forces in countries so that they
18 may have the power on the books to do things, but they
19 really need to know how to identify what a pirated
20 product looks like, how to build the cases so that
21 they can take them to the courts and use the laws and
22 so strengthened, you know, technical assistance in the

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1 area of processing and adjudicating cases involving
2 piracy, I think, would be very valuable and
3 particularly in a country like Morocco that has such
4 high piracy levels.

5 The government has the commitment to act,
6 but it might need the resources and the technical
7 assistance to be able to follow through on commitments
8 to improve the situation.

9 CHAIRPERSON SURO-BREDIE: Thank you very
10 much.

11 MS. LANE: Thanks.

12 CHAIRPERSON SURO-BREDIE: Our next witness
13 is Susan Kling Finston, Associate Vice President,
14 Intellectual Property and Middle East Affairs with the
15 Pharmaceutical Research and Manufacturers Association.

16 Welcome.

17 MS. FINSTON: Thank you.

18 Good afternoon. PhRMA represents nearly
19 100 of America's leading research based pharmaceutical
20 and biotechnology companies. This year alone PhRMA
21 members will invest more than \$30 billion in research
22 worldwide to develop and bring to market new

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1 medicines.

2 In the last four or five years, PhRMA
3 members have already devoted more than \$2 billion in
4 medicines as well as technical support to combat
5 HIV/AIDS, malaria, tuberculosis, and other diseases of
6 the developing world. Strong protection of our
7 intellectual property makes this possible.

8 I appreciate the opportunity to appear
9 before the Trade Policy Staff Committee to discuss the
10 proposed U.S.-Morocco free trade agreement. PhRMA
11 members are also active participants and investors in
12 Morocco. Our companies bring innovative, cutting edge
13 products to Moroccan physicians to improve the quality
14 of health for patients in Morocco.

15 When our companies introduce these
16 products, we also train local personnel both for
17 manufacturing excellence and to insure that accurate
18 scientific information is brought to the medical
19 community.

20 In addition, our members active in Morocco
21 license valuable proprietary technology to Moroccan
22 pharmaceutical companies. Directly as a result of

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1 these licensing agreements, Morocco's local
2 pharmaceutical industry is robust with approximately
3 50 local companies.

4 The Moroccan pharmaceutical market in 2001
5 was valued at approximately \$450 million.

6 As those speaking before me, PhRMA
7 strongly supports the negotiation of the free trade
8 agreement with Morocco. We believe this will bring
9 mutual benefits both to Morocco and to the United
10 States. We're pleased to take this opportunity to
11 discuss a few key issues that will be critical to our
12 industry in the context of this negotiation.

13 Our priorities include effective
14 intellectual property protection for patented
15 pharmaceutical products and the undisclosed
16 proprietary information associated with applications
17 for their marketing approval, as well as local
18 manufacturing requirements that are inconsistent with
19 both intellectual property obligations in the WTO and
20 also represent an onerous industrial policy that is
21 intended to increase investment in Morocco, but
22 actually does not do so, and finally, local ownership

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1 requirements that are unique to the pharmaceutical
2 industry in Morocco.

3 My statement today I'd like to emphasize
4 isn't really a comprehensive summary, but is intended
5 more as a snapshot of our interest, and we will
6 provide comprehensive comments that include some
7 smaller issues like customs or other tariff issues
8 separately. I just wanted to highlight key concerns
9 today for the benefit of the committee.

10 In terms of intellectual property, while
11 we applaud the passage of TRIPS legislation meant to
12 meet Morocco's obligations under the WTO, we still
13 await its implementation. When it is implemented, we
14 believe it will provide effective protection for
15 patented pharmaceutical products.

16 But two years after its passage in March
17 of 2000, we still await implementing legislation.
18 When our people ask in Morocco, we're told, "Any time,
19 any time," which is better than, "Next year," which is
20 what we heard in previous years, but any time hasn't
21 come yet.

22 And so we have a situation where similar

1 to the free trade agreement being negotiated in Chile,
2 we have a partner that hasn't yet met their basic
3 TRIPS obligations, and we hope that is.

4 In other cases we had a little bit of this
5 with Jordan following through on its WTO obligations.
6 We see it with Chile. We hope that the U.S. will seek
7 the publication of the implementing regulations that
8 we understand is in close to final form actually as a
9 precondition of the FTA so that the patent law can
10 enter into force and the Moroccan Patent Office can
11 start issuing patents for pharmaceutical products, and
12 that this should happen obviously during the
13 negotiation of the FTA or as a precondition, as
14 opposed to as a deliverable.

15 We shouldn't have to pay twice for
16 something that they already were obligated to do under
17 the WTO.

18 In addition, there is no data exclusivity
19 in Morocco. That means there's no effective
20 protection for the commercially valuable proprietary
21 undisclosed information that's required as a condition
22 for seeking marketing approval in Morocco.

1 Protection for patents recognizes the
2 value of the invention. It's part of the social
3 contract that inventors will disclose the actual
4 invention and they get a patent.

5 The considerable effort that research
6 based pharmaceutical companies undertake to actually
7 come up with a product is what's put before regulatory
8 authorities. That's to gain marketing registration of
9 the actual product, and that's recognized under
10 Article 39.3 of the TRIPS agreement. And that's
11 footnoted in our testimony.

12 What are we asking for in Morocco? Data
13 exclusivity safeguards the commercially valuable and
14 confidential data in the clinical dossier submitted by
15 innovative firms to health regulatory agencies. It
16 insures the information provided will not be disclosed
17 to the public or other manufacturers without
18 safeguards and will not be relied upon either directly
19 or indirectly by Ministry of Health officials for a
20 limited period of time.

21 This protection is provided in recognition
22 of the investment of hundreds of millions of dollars

1 made in expensive and time consuming preclinical and
2 clinical trials, and that actually constitutes the
3 majority of the \$800 million that Tufts University
4 documents as now needed to bring a successful product
5 to market.

6 As a developing country, everyone agrees
7 that Morocco had until January 1st, 2000 to implement
8 Article 39.3 of the TRIPS agreement, but to date
9 Morocco does not provide protection for undisclosed
10 data.

11 I am familiar that the government has made
12 some claims that there are other provisions for Trade
13 Secrets or Official Secrets Act that provide this kind
14 of protection, but we do not believe this is so.
15 We've seen this also in other countries, and in the
16 end there really does need to be a purpose built 39.3
17 protection because it's different than an official
18 trade secret. It's actually to prevent the unfair
19 commercial benefit to a second company from riding on
20 the coattails of data.

21 It also serves an important public health
22 need that actual Under Secretary Larson highlighted in

1 a speech in India a couple of weeks ago, and having
2 heard him say that, I think it's worth repeating.

3 If another company is riding on the
4 coattails of our data, that means they're not clearly
5 proving bioequivalence and bioavailability. That
6 means the drug may not have the right quantity or it
7 might not dissolve in the body in the right way. And
8 so there are important public health reasons to insure
9 that all companies are providing full clinical data
10 for the products that they are submitting at least
11 during the initial period of marketing when you might
12 want to have, say, a post surveillance requirement the
13 way that Taiwan has to insure that a product is
14 manufactured safely into the full specifications of
15 what the patient needs.

16 So we also seek in the case of undisclosed
17 information that the U.S. government receive an
18 assurance from Morocco that Morocco will implement
19 effective protection as required by TRIPS Article
20 39.3, again, as part of the pre-negotiation process if
21 we can say of the FTA, and again, not to pay twice for
22 something that they're obligated to do as part of the

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1 FTA.

2 This would help clarify applicable rules
3 for the benefit of all parties: the research based
4 industry, the local generic manufacturers, and the
5 Ministry of Health.

6 And what has happened, what's interesting
7 to me to see, an evolution. A number of people have
8 brought up the Jordan FTA. What's interesting is that
9 the Ministry of Health in Jordan, which has just
10 explicated and reinforced data exclusivity, has shown
11 that the local companies want the products registered
12 quickly. They want the data exclusivity period to
13 start and then it ends, and then they can come on the
14 market.

15 So it really is for the benefit of all
16 concerned.

17 In addition, we seek a few other
18 clarifications in the intellectual property regime
19 along the lines of those obtained in the U.S.-Jordan
20 free trade agreement, the recently announced U.S.-
21 Singapore FTA, and the upcoming Chile FTA, and we'll
22 reflect this in our formal written comments.

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1 Outside of the intellectual property area,
2 we have two problems that are a little bit unusual in
3 Morocco, and we think that they are a little bit
4 arcane. They reflect industrial policies that are
5 really out of date and that a number of companies even
6 among the local companies in Morocco would welcome the
7 FTA as an opportunity to address them.

8 The first is a local manufacturing site
9 requirement. To become a pharmaceutical company in
10 Morocco, a PhRMA member must build a local
11 manufacturing plant, and that's regardless of any
12 other realities in the situation.

13 So, for example, if you can manufacture a
14 year's supply of a product in one month, you still
15 have to produce a plant.

16 They want bricks and mortar investment,
17 but actually there's so much over capacity right now
18 that the investment doesn't make any sense in bricks
19 and mortar, especially when you consider the
20 investment our companies make in the hiring and
21 training of medical representatives and other high
22 quality professionals, upgrading skills of

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1 pharmacists, training doctors and nurses in new
2 technologies.

3 These are real investments and real
4 technology transfer that Morocco should consider on a
5 par with bricks and mortar. In addition, we
6 understand that the capacity right now is only at 30
7 or 40 percent for the facilities they have. So it
8 absolutely makes no sense to require as a condition of
9 a pharmaceutical company's operations that there be a
10 bricks and mortar facility.

11 So we would request that USTR seek
12 agreement of the government in Morocco to amend the
13 law of 1960 and allow foreign companies -- oh, wait a
14 second -- right, to allow full ownership regardless of
15 capital structure and local manufacturing.

16 Other countries like Jordan have shown
17 there are other and better ways to create a strong
18 pharmaceutical industry and insure that pharmaceutical
19 products are safely manufactured and marketed in the
20 best interest of the company.

21 A second condition is the requirement the
22 majority interest to the company has to be owned by a

1 pharmacist. And this isn't just a problem for PhRMA
2 members because actually a lot of companies in Morocco
3 might not have a pharmacist. The idea goes back to
4 the idea that if you're a pharmaceutical company,
5 therefore, you're a pharmacist, and it goes down to
6 the idea of compounding; that pharmacists are
7 compounding in their offices.

8 Well, this goes back 100 years, and
9 obviously very few pharmacists in the U.S. are
10 compounding.

11 This also exacerbates the previous
12 negative impact of a requirement in bricks and mortar.
13 So under Moroccan law 159367 of February 19th, 1960,
14 only companies controlled and majority owned by
15 individual pharmacists, and half of these pharmacists
16 have to be or Moroccan pharmacists on top of it, can
17 be licensed to be a pharmaceutical company in Morocco.
18 If you fail to meet this criteria, you cannot
19 manufacture, import, and market, and you also can't
20 have any official contacts with Ministry of Health
21 officials, which means it's essentially impossible to
22 operate in Morocco.

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1 As a result of this, any American company
2 has to either transfer 51 percent of its local
3 investment to individual pharmacists and then the
4 local company enjoys the ownership rights, and they're
5 considered to be the owner of it, or else they have to
6 have a local pharmacist as the owner in some other
7 way.

8 Even local companies don't like this
9 because if the patriarch or the matriarch of the
10 company was a local pharmacist but their children
11 aren't, it means that they cannot control the company
12 in future years.

13 It also means that Moroccan companies
14 can't expand by seeking outside investment because
15 they have to keep the 51 percent in control of local
16 pharmacists. So this is something that would be to
17 the benefit of both local companies in Morocco and our
18 companies.

19 As I said, it's a kind of unusual
20 situation. It's a little bit arcane, and it's
21 something that we would take the opportunity of the
22 FTA to address.

1 So accordingly, we request that USTR seek
2 Morocco's agreement to amend the definition of a
3 pharmaceutical company in the law of 1960 to
4 modernize the Moroccan legal environment for the
5 benefit of both local companies will be able to
6 attract more capital investment, to be able to expand
7 our own operations and allow us to maintain ownership
8 of our own products in Morocco.

9 In closing, there's been a lot of
10 discussion of Jordan, and it is interesting. In 1999,
11 we had some similar issues in Jordan. Unlike Jordan,
12 there is no strong domestic Moroccan lobby fighting
13 against aid exclusivity and fighting against
14 implementation of the rules.

15 We think it's more a situation of just
16 needing to move things along, but I would like to say
17 that in 1999, Jordanian industry exported \$150 million
18 of their copy products. They were very concerned
19 about maintaining that, and they were very concerned
20 that coming into WTO standards and later TRIPS law
21 standards would hurt that.

22 I'm pleased to say that in 2001 local

1 Jordanian companies increased their exports by 25
2 percent over 1999 levels to 200 million, and we're
3 convinced that just as we had inflow of PhRMA members
4 increase technology transfer, clinical trials and a
5 lot of other activities, we see Morocco as the
6 regional base for this same development in the Magrev,
7 and we believe that our companies will just as much
8 strongly support this as we have continued to support
9 economic reform in Jordan that has brought public
10 health gains to Jordanian patients and benefits
11 throughout the world as Jordanian companies now are
12 involved in development of new products, innovative
13 products, and no longer just the sale of generic
14 products.

15 Thank you, again, for your time today.
16 I'll be happy to answer any questions.

17 CHAIRPERSON SURO-BREDIE: The first
18 question by USTR, please.

19 MS. NOVELLI: Yes, Susan. Thank you very
20 much for that comprehensive testimony, and I just
21 wanted to ask you a follow-up on what you were just
22 saying at the very end.

1 What's the nature of the current, you
2 know, structure of the pharmaceutical industry in
3 Morocco and assuming that all of these high quality
4 things are made and we can negotiate an end to some of
5 these unusual requirements? What do you foresee as,
6 you know, the U.S. pharmaceutical industry's
7 involvement then in Morocco?

8 MS. FINSTON: A few of our member
9 companies -- and I can gather specifics after I get
10 their permission to give out information that they may
11 consider proprietary -- have already expressed an
12 interest for greater investment in Morocco. They
13 really are hobbled by this 51 percent requirement and
14 by the bricks and mortar requirement.

15 I believe that we have probably up to
16 three or four of our larger companies that are
17 interested in greatly expanding their operations in
18 Morocco, and to get more specific, again, I'd have to
19 get their permission.

20 But we, for example, are now forming a new
21 local American work group. It's being based in
22 Morocco in light of the interest of our companies in

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1 Morocco.

2 You know we placed our regional
3 representative in Jordan and that signaled, in our
4 view, Jordan's commitment to reforms and our need to
5 expand operations there.

6 As a result, we now have many more
7 companies operating there. Two of our companies,
8 Aventis and Novartis, now have offices in Jordan of 25
9 or 30 people, which three years ago would have been
10 impossible to imagine.

11 Lilly just opened up a regional office in
12 Jordan. We see Morocco as having a similar potential,
13 but obviously the combination of this pharmacist
14 requirement and the bricks and mortar and 51 percent
15 ownership requirements have made it very difficult for
16 our companies to feel as at home in Morocco as they
17 feel on Jordan.

18 MS. NOVELLI: And do you have any
19 information on what the current, you know, situation
20 is there now? Are there a lot of Moroccan
21 pharmaceutical companies? Are there a few? You know.

22 MS. FINSTON: There are 50 Moroccan

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1 pharmaceutical companies, but of course, all
2 pharmaceutical companies are Moroccan pharmaceutical
3 companies.

4 MS. NOVELLI: Right.

5 MS. FINSTON: A number of them are
6 actually producing for our members and are producing
7 products that although technically local products are
8 our products, so there are 50. As I stated, the value
9 of the market last year was 450 million. The value of
10 the Israel market is only 600 million. So it's
11 actually quite a good sized market.

12 The value is good. It is a country that
13 believes in rule of law. It's a country where our
14 companies are happy to do business as well as they
15 can, but we believe that there's a much greater
16 potential.

17 CHAIRPERSON SURO-BREDIE: We have an
18 additional questions by USTR?

19 MR. BELL: Yes. In terms of that market
20 in U.S. exports. are there so-called innovative drugs
21 that are being sold into Morocco or are they generic
22 products?

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1 MS. FINSTON: We don't have a problem very
2 much in Morocco with copy products. So we are able to
3 sell our innovative products.

4 MR. BELL: Thank you.

5 CHAIRPERSON SURO-BREDIE: Yes, of course.

6 MS. HYLAND: You've talked a lot about the
7 ownership requirements that are peculiar to the
8 pharmaceutical industry, and I understand that there's
9 a new law being promulgated that would address a lot
10 of those issues. Are you familiar with this law?

11 And if you are, does it address all of
12 your concerns?

13 MS. FINSTON: I'm not familiar with the
14 specifics of the new law, although we've also when
15 we've raised questions about it been told there are
16 things happening, and sometimes the progress is more
17 oral than written.

18 I would want to go back and see where it
19 is. If they are addressing it, that's great. As of
20 a few weeks ago, I wasn't aware of anything. So I'll
21 have to go back and take a look at that.

22 MS. HYLAND: Okay. Because we'd be

1 interested in your assessment of the law.

2 CHAIRPERSON SURO-BREDIE: Once you did
3 that, could you send your assessment to the panel, to
4 Gloria Blue? And you can do that whichever way you'd
5 like. If you want to make it business confidential,
6 it's fine with us.

7 MS. FINSTON: Okay.

8 CHAIRPERSON SURO-BREDIE: gblue@ustr.gov.
9 Another question by USTR.

10 MR. BIRDSEY: You had mentioned the delay
11 in the patent law's implementation causing obvious
12 problems. What in your view is the reason for the
13 delay in getting the implementing regulations done and
14 other than the obvious uncertainty created without the
15 patent protection? What other difficulties are your
16 members finding in a Morocco related to lack of patent
17 protection?

18 MS. FINSTON: A number of countries don't
19 have a functioning mailbox. The mailbox system under
20 the TRIPS agreement has turned out to be a lot more
21 obscure than I think was intended. I'm not sure if
22 it's functioning in Morocco.

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1 If it's functioning, ultimately we
2 wouldn't have any problem except discontinuing delay,
3 but if it's not a well functioning mailbox system,
4 then we are losing out on the ability to patent our
5 products.

6 In addition, I think no matter how good a
7 company finds a commercial environment generally, if
8 there isn't patent protection, it certainly places a
9 limit on what you're going to launch and when you're
10 going to launch it, and we just need this uncertainty
11 to be addressed.

12 And in terms of why, there isn't a strong
13 lobby against patent protection in Morocco of which I
14 am aware. So I think it's more a question of
15 bureaucratic delay, and we have been asking about it,
16 but obviously it would be very helpful if they are
17 pressed on this as part of the FTA process.

18 CHAIRPERSON SURO-BREDIE: The Commerce
19 Department.

20 MR. ROTH: I have two questions. The
21 first is: what do you think is causing the delay for
22 Morocco to implement 39.3 of TRIPS?

1 And the second question is your experience
2 with administrative health in Morocco. Have they
3 relied on proprietary and undisclosed data for the
4 registration of copies?

5 MS. FINSTON: I think that the delay is
6 similar to the delay in the implementation of the
7 patent laws, a question of people not necessarily
8 having expertise.

9 The other interesting thing about this is
10 that it's a Ministry of Health requirement, and for
11 most industrial property protection, it isn't falling
12 on the Ministry of Health.

13 Laura was talking before me about the need
14 for capacity building and technical assistance. We
15 echo that, and we believe that Minister of Health
16 officials need a certain amount of familiarization or
17 assimilation with TRIPS obligations.

18 Data exclusivity is a great way to create
19 a gatekeeper and keep infringing products off the
20 market. While we don't currently have an infringing
21 product problem in Morocco, as I said, because they
22 don't have patent protection, it puts a break on when

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1 and how products would be launched in Morocco.

2 And so I'll have to go back and gather
3 information, but I'm not aware of specific complaints
4 against the Ministry of Health more than we would like
5 to be doing more to bring cutting edge products to
6 patients in Morocco than we can currently do in the
7 environment as it is now.

8 CHAIRPERSON SURO-BREDIE: I think that's
9 all of our questions. Thank you.

10 MS. FINSTON: Okay. Thank you.

11 Cathy, I just wanted to give you this from
12 the Jordan Times.

13 MS. NOVELLI: Oh, thanks.

14 CHAIRPERSON SURO-BREDIE: Our next witness
15 is David McGuire, Director of Trade Relations and
16 Global Strategies, U.S. Grains Council.

17 MR. MCGUIRE: Thank you, Madame Chair.

18 I have with me today Kevin Natz of the
19 council staff as well.

20 It's late Thursday afternoon on a dreary
21 day, and I'm still daydreaming about Casa Blanca and
22 the various movies in Morocco.

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1 (Laughter.)

2 MR. MCGUIRE: So hopefully I can regain my
3 focus here and be quite succinct.

4 CHAIRPERSON SURO-BREDIE: You might be in
5 one.

6 MR. MCGUIRE: Let's hope not.

7 As I said, my name is David McGuire, and
8 Kevin Natz, and we're glad to have this opportunity to
9 address you today.

10 The council is a private, nonprofit
11 organization representing both producers and agri-
12 business with a common interest in developing export
13 markets for barley, corn, and sorghum, and their
14 related products in more than 40 countries around the
15 globe. We have ten offices overseas, approximately 45
16 staff in those ten offices, including Morocco.

17 The Grains Council has been active in
18 Morocco for many years and clearly sees how the
19 successful completion of a free trade agreement
20 between our two countries would further benefit U.S.
21 feed grain exports.

22 The feed grain sector is already

1 benefitting from strong economic ties as the Moroccan
2 market has grown considerably in the past ten years.
3 Morocco is primarily a bulk commodity market. U.S.
4 exports there have averaged \$134 million in the three
5 calendar years, 1999 through 2001, with corn being the
6 largest single component of that trade.

7 Morocco imported 400,000 metric tons of
8 U.S. corn in 2001, making it our 18th largest market
9 in the world. The council projects this market will
10 continue to grow over the next ten years with
11 additional demand for feed grains exceeding one
12 million tons.

13 Driving Morocco's feed grain demand is
14 poultry production, the fastest growing meat
15 production sector in Morocco. In 2001, per capita
16 consumption was a little over eight kilos for chicken
17 meat and 110 units for eggs.

18 There's further room for growth in the
19 poultry sector as the cost of production of chicken
20 meat in Morocco is one of the highest when compared to
21 other low-middle income countries.

22 In addition, corn is no longer seen as a

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1 viable crop for production in Morocco due to the large
2 amounts of water it consumes and the fact that
3 domestically produced corn is extremely expensive
4 compared to international prices.

5 Therefore, any additional demand for corn
6 for the poultry sector specifically will have to be
7 sourced through imports.

8 Morocco's beef sector has remained
9 stagnant over the past decade. In fact, consumption
10 levels of red meat are about four kilos per capita
11 now, and they've been declining as the population has
12 grown.

13 Production would have to increase another
14 500,000 metric tons by the year 2020 to maintain
15 current consumption levels, which as I mentioned are
16 quite low.

17 This level of production can only take
18 place through intensive feeding of a larger number of
19 animals with access to low cost feed grains. The
20 Morocco Ministry of Agriculture remains committed to
21 the implementation of a development plan sponsored by
22 the U.S. Grains Council, emphasizing production in

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1 feed lots where animals are raised under intensive
2 feeding programs, improving production performance and
3 minimizing damage to fragile pasture land in Morocco.

4 Since its ratification of the WTO
5 agreement in 1994, Morocco has taken several measures
6 in its agricultural sector to comply with WTO
7 requirements. They have eliminated import licensing
8 and reference prices for most commodities, and have
9 made progress in liberalizing trade in agriculture
10 commodities, for example, giving feed millers improved
11 access to imported feed grains.

12 Additional reforms in cereals and oil seed
13 trade no longer require importers to go through the
14 state trading organization.

15 In 1996, Morocco reduced corn tariffs,
16 which resulted in their implementation -- excuse me --
17 importing corn tripling to more than one million tons.

18 Nevertheless, high tariffs for many
19 products remain a significant barrier to U.S. exports.
20 The current tariff system yields nominal protection of
21 about 40 percent for corn and operates much like a
22 variable levy. When the world price goes up, the

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1 import duties go down and vice versa.

2 I take the opportunity to explain the
3 policy more fully in my written testimony, but suffice
4 it to say that the policy gives importers little
5 incentive to seek the best world price or the most
6 optimal combination of feed ingredients.

7 The United States now accounts for
8 approximately 60 percent of Morocco's total corn
9 imports. However, U.S. feed grains do face strong
10 competition from countries such as Argentina and
11 Hungary.

12 While Morocco signed a free trade
13 agreement in March of 2001 with the E.U., agricultural
14 issues were largely excluded in that treaty.
15 Therefore, tariff elimination under a U.S.-Moroccan
16 free trade agreement would give U.S. exporters
17 significant tariff advantages over those competitors.

18 The Moroccan Ministry of Agriculture has
19 already presented a proposal to eliminate important
20 tariffs on corn and sorghum. That proposal is working
21 its way through various government bodies.

22 However, an FDA that binds those tariffs

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1 at zero specific to U.S. commodities would assure a
2 significant growth opportunity for U.S. feed grain
3 exports.

4 U.S. Grains Council believes exports are
5 tied to global economic development and to U.S.
6 agriculture's profitability, and that the United
7 States will not be able to significantly expand its
8 exports unless it is willing to promote the
9 liberalization of the world's trading system.

10 A free trade agreement with Morocco that
11 eliminates tariffs on U.S. corn, barley, and sorghum
12 would not only provide for further expansion of the
13 Moroccan market for feed grains, but also would allow
14 the United States to capture a larger portion of that
15 important growth.

16 Mr. Chair -- Madame Chair, that concludes
17 my testimony. I'd be happy to take your questions.

18 CHAIRPERSON SURO-BREDIE: That set you
19 back.

20 (Laughter.)

21 MR. McGUIRE: I know you're still
22 daydreaming about those movies and you weren't

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1 listening.

2 CHAIRPERSON SURO-BREDIE: I don't think
3 I'm daydreaming.

4 Okay. The first question by the
5 Department of Agriculture.

6 MR. MCGUIRE: Surprise.

7 MR. MEYER: David, when you talked about
8 some of the reductions in tariffs in corn in recent
9 years, could you talk a little bit about some of the
10 non-tariff barriers that are present for corn,
11 sorghum, barley?

12 MR. MCGUIRE: Well, I think in the
13 particular case of Morocco, I think that has been a
14 minor issue. We use Morocco as a success story in
15 virtually all of our talks with stakeholders and
16 members around the world because we've been able to
17 triple exports in the past six, seven years, and we
18 think that will continue.

19 The main obstacle to growth is simply the
20 high cost of local production, and therefore, if we
21 can reduce the tariff situation growth will be quite
22 dramatic.

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1 CHAIRPERSON SURO-BREDIE: USTR.

2 MR. BIRDSEY: In your view, what kind of
3 technical assistance would be appropriate in Morocco
4 consistent with an improved trading relationship?

5 MR. MCGUIRE: Well, I can only speak for
6 our particular commodity interests, those being corn,
7 barley, and sorghum. Technical assistance is what our
8 programs are all about, and we work with the dairy
9 beef poultry sectors to try to intensify their
10 feeding, feed lot situations, things of that nature.

11 So that is the basis of our work in
12 Morocco, and it has certainly paid dividends. We're
13 quite pleased.

14 MS. RZEMIEN: Are there any infrastructure
15 limitations that currently constrain U.S. grain
16 suppliers' ability to export to Morocco? And I have
17 in mind here is there sufficient grain handling
18 capacity at ports. Are there in country distribution
19 systems, et cetera?

20 MR. MCGUIRE: I'm not aware that we are
21 constrained dramatically. I'm surprised you didn't
22 bring up the word "biotech." This is the first

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1 meeting I've been in in many, many months when no one
2 has brought it up.

3 The biotech issue has not -- I shouldn't
4 have brought it up either probably -- it hasn't
5 constrained us, but it's always a threat. There's no
6 question that that area of the world often looks north
7 to Europe for policy direction, and so we continue to
8 have a very broad educational effort in our Moroccan
9 office, as well as everywhere else around the world.

10 So biotech is the one threat. From a
11 capacity point of view, I don't believe it's an issue.

12 MS. RZEMIEN: Thank you.

13 CHAIRPERSON SURO-BREDIE: The next
14 question, USTR.

15 MS. NOVELLI: Do you face any significant
16 competition now from Europe in your grains?

17 And, you know, if we are successful in
18 what we do, you know, if the Europeans then decide
19 maybe they want to think about doing the same thing,
20 how is that going to affect --

21 MR. McGUIRE: Well, I mentioned in my
22 testimony that the agreement signed, the bilateral

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1 agreement, E.U. and Morocco, that did not cover
2 agricultural products.

3 MS. NOVELLI: Right, right.

4 MR. MCGUIRE: Barley certainly is exported
5 from the E.U. in significant quantities, depending on
6 the market need, and that certainly competes with our
7 barley as well as corn and sorghum.

8 But it is why we feel that tariff
9 elimination is so crucial to expand the market for
10 corn, because we believe that it positions itself very
11 well against those competing U.E. commodities if the
12 price -- if the tariff treatment is equal.

13 And I believe I may turn to my colleague
14 here.

15 (Mr. McGuire conferred.)

16 MR. MCGUIRE: Right. I believe that the
17 tariff on barley is zero at the current time, and so
18 if we were able to achieve that for the other
19 commodities, it would certainly help us.

20 MS. NOVELLI: Okay. Thanks.

21 CHAIRPERSON SURO-BREDIE: The Department
22 of Commerce.

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1 MR. ROTH: We understand the Moroccans are
2 thinking of applying a value added tax to mixed feeds
3 that used imported grains, but this tax is not applied
4 to mixed feeds using domestic grains.

5 To what extent do you believe that this
6 affects imports?

7 MR. MCGUIRE: Well, I'm not aware
8 specifically what you're speaking of, but clearly any
9 tax would affect imports, and so I would be interested
10 in seeing the specifics of the language of that
11 proposal.

12 One of our long held beliefs, as is every
13 trade negotiator, is the equal treatment of both
14 domestic and foreign produced goods. So those
15 principles certainly we would expound on in our
16 position I'm sure.

17 CHAIRPERSON SURO-BREDIE: The State
18 Department.

19 MS. HYLAND: As you probably heard over
20 the course of this hearing, one of the main goals of
21 the FTA for Morocco is job creation, and extrapolating
22 a little, were the tariffs on corn to come down making

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1 feed cheaper for the poultry industry, do you envision
2 that there would be a certain expansion in that
3 industry? Is this something that would lead to job
4 creation, or do you need that connection?

5 MR. MCGUIRE: Well, I certainly think it
6 would. As I said in the testimony, we would expect
7 that consumption of poultry products would increase
8 dramatically in the immediate future, and that can
9 only create job growth through the normal chain of
10 events.

11 And, you know, we're talking price fueling
12 the demand, and so that's where the change starts.

13 MS. HYLAND: So you think there's a larger
14 market for poultry were it to be?

15 MR. MCGUIRE: We believe there's pent up
16 demand for poultry and that will continue to be the
17 case until prices come down.

18 CHAIRPERSON SURO-BREDIE: USTR.

19 MS. NOVELLI: There's been a lot of talk
20 about the need for Morocco to undertake significant
21 agricultural reform in general, and aside from
22 lowering tariffs, do you have any thoughts or views

1 about what would need to be done, you know,
2 specifically in your areas?

3 MR. MCGUIRE: Well, I think without
4 sounding like an expert here -- and I realize I'm on
5 the witness stand to be an expert, but I am not -- I
6 think our believe is that -- and I simply say this as
7 an economist really -- poultry prices are very high
8 due to very limited land and the high cost of water.
9 I say land in the sense of poultry production.

10 And, therefore, we do not believe the
11 Moroccans can increase demand for poultry dramatically
12 if left to eh industry internally expanding. And so
13 that is -- we believe for corn, barley, and sorghum it
14 would benefit everyone to lower the tariffs and allow
15 more access for imported feed grains.

16 That is probably the quickest way to
17 adjust internal resources in the agricultural sector
18 most efficiently. That would be our position.

19 MS. NOVELLI: Would you say if Morocco
20 agreed to have that happen -- do I understand from
21 what you're saying that you don't think that current
22 production would be displaced, I mean, to the extent

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1 there is current production?

2 I mean, how would that affect, you know,
3 farmers who are on small farms in Morocco?

4 MR. MCGUIRE: There would probably be a
5 certain amount of structural adjustment. I think the
6 examples in the world would suggest that that is what
7 sometimes happens or most times happens, but that
8 there would be a -- you know, I certainly don't want
9 to suggest what the sovereign nation of Morocco wishes
10 to do for their local production, producers, but there
11 may be a more efficient way to structure their
12 agriculture that they see as a result of an FTA.
13 That's what these things tend to do, I think.

14 MS. NOVELLI: But in your experience when
15 this retooling occurs, could it occur, for example,
16 people were growing things that weren't economic?
17 Maybe they start --

18 MR. MCGUIRE: Absolutely.

19 MS. NOVELLI: I mean, poultry farms. I
20 mean, is that the kind of thing so that people don't
21 just fall off the radar screen?

22 MR. MCGUIRE: Correct. There's a domino

1 effect that when I say resources would be more
2 efficiently moved into other sectors within
3 agriculture, other products, et cetera.

4 CHAIRPERSON SURO-BREDIE: I think those
5 are all of the questions. Thank you, Mr. McGuire.

6 MR. MCGUIRE: You're welcome. Thank you.

7 CHAIRPERSON SURO-BREDIE: Our last witness
8 is Mr. Robert Vastine, President of the Coalition of
9 Service Industries.

10 My apologies, Mr. Vastine. You now know
11 everything there is to know about corn, barley,
12 sorghum and several other testimonies.

13 MR. VASTINE: I was always told that you
14 can't make any progress until we make it on eggs.

15 CHAIRPERSON SURO-BREDIE: Oh, there you
16 go.

17 MR. VASTINE: So it's always good to know.

18 Thank you, and I'll try to make this as
19 short and sweet as possible and painless. It is a
20 darkening Thursday afternoon, and being last is not an
21 enviable position.

22 But thank you for the opportunity.

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1 Services represent 54 percent of Morocco's gross
2 domestic product, mainly tourism. In the last two
3 decades exports of commercial services from Morocco
4 have tripled, and that, again, is tourism, mainly
5 European tourism, into Morocco.

6 They have undertaken as we have noted here
7 before some structural reform in services through
8 privatization and a more progressive investment
9 regime. This has been good, but doesn't go quite far
10 enough.

11 The trade agreement could vastly
12 accelerate progress in internal reforms.

13 In the GATTs, Morocco has made limited
14 commitments in the establishment of professional
15 business basic and value added telecommunications,
16 environmental, financial, and tourism services.
17 Almost all of these bindings are in mode three.

18 Typically Morocco's schedule, if you just
19 took its GATT schedule, if you just took under the
20 category of business services professional services,
21 A, the first thing, modes one and two are inbound.
22 Mode three is bound except participation of foreign

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1 capital is limited to 25 percent in accounting,
2 auditing, and bookkeeping, and in mode four Moroccan
3 nationality is required.

4 MS. NOVELLI: I'm sorry. Could you just
5 explain what mode three is --

6 MR. VASTINE: Oh, Cathy.

7 MS. NOVELLI: -- for those of us who
8 are --

9 MR. VASTINE: All right. The modalities.
10 Well, I'd be glad to explain what mode three is
11 because it is the most important mode of supply in
12 services. Services are supplied through cross-border
13 trade, which means selling something from, let's say,
14 New York to Marakesh without being there.

15 Mode two is, let's say, a New Yorker going
16 to -- a Marakeshi coming to New York for health
17 services to see the doctor or tourism. Those are the
18 best examples. Tourism is the best example.

19 Mode three is establishment. Mode three
20 is when a company goes to Morocco and sets up
21 business, and this is the most important actually in
22 trade and services. Most services have to be sold

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1 from an establishment in country.

2 You can't sell insurance -- most insurance
3 cannot be sold from New York. It has to be sold in
4 Marakesh. Somebody has to go there and, you know,
5 sell insurance policy by policy unless it's marine
6 aviation and transport, which can be done across
7 border apparently.

8 So mode three is where the guts of
9 services trade takes place, and so typically modes one
10 and two are not bound. They have not made
11 liberalization commitments in mode one and mode two
12 for most of the categories of services that are
13 contained in the schedules.

14 They have in many cases no restrictions on
15 I just gave you an example, accounting, where they do
16 have a restriction on foreign participation, but in
17 many cases they don't have restrictions except in
18 telecoms and financial services, which I'll come back
19 to.

20 Morocco has committed in general, broadly
21 speaking -- this is sort of an interesting way of
22 looking at this -- if you take all of the ways in

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1 which a country can commit to liberalization in the
2 GATTs, all of the categories and subcategories this
3 way, like auditing all of the businesses and
4 subcategorizations of businesses and then all of the
5 horizontal commitments like for market access,
6 national treatment, et cetera, that sum total -- let's
7 say that's 100 -- according to a World Bank analyst,
8 Bernie Hookman, who is very well known, most
9 developing countries have only committed to 6.9
10 percent of all potential commitments.

11 Morocco is right there at seven percent,
12 and so that means that of all the possible ways you
13 can commit to liberalization in the GATTs, Morocco is
14 right down there at the bottom with everybody else in
15 the developing world.

16 I don't know how the World Bank defines
17 "developing" for this purpose, but I think the point
18 is there.

19 Now, it's a little bit unfair, that
20 characterization, that methodology because, as I just
21 pointed out, most of the commitments are in mode
22 three, and that's where most of the trade is.

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1 So maybe Morocco is doing a little bit
2 better than we think, and I would point out that in
3 many, many, most of the categories, national treatment
4 is bound. There are no restrictions on national
5 treatment.

6 Another mode of supply, the fourth mode of
7 supply I didn't get to. The fourth mode of supply is
8 the movement of people. Services are in many cases
9 supplied by consultants, by whatever going to
10 accountants, going to a foreign country and, you know,
11 providing their service and coming home. So this is
12 called the movement of key business personnel, and
13 it's usually temporary.

14 So we have a proposal. CSI and our
15 counterparts in Europe, the European Services Forum
16 and the Hong Kong counterparts have put on the table
17 in Geneva or have advocated to our governments with
18 limited success the need for a special visa to
19 facilitate the short term movements of people back and
20 forth.

21 We're not talking immigration here. This
22 is not (h)(1)(B). This is not threat, should be no

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1 threat to domestic labor. We're talking about
2 professionals, namely top executives, highly skilled
3 individuals.

4 So anyway, it's a longer story than that,
5 but that maybe gives you a feel for it.

6 As I said, in mode four Morocco maintains
7 horizontal limitations on the movement of personnel
8 except for those employed by a firm established in the
9 country. So Laura was pointing out that they are
10 making accommodations in film making, and that's
11 great, but in the GATT schedules, they have a
12 horizontal limitation on the ability of people to move
13 in and out of the country to provide services. So
14 that's serious, and that's something we should take a
15 look at.

16 An FTA with Morocco will require
17 substantial market openings and in all sectors and all
18 modes of supply, and one of CSI's main priorities --
19 and we have compiled a handbook, a handy-dandy
20 reference for you all to what we seek in all sectors.

21 So if you want to know what the insurance
22 folks want, you've got it right here on page 33. If

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1 you want to know what the legal services folks want,
2 you've got it here on page 43. There's a summary and
3 then there's a longer description of, in most cases,
4 in maritime services even, telecommunications,
5 tourism, et cetera, et cetera.

6 So I would be glad to supply each one of
7 you with one of these if you'd like that. We can do
8 that later.

9 Oh, no. Do we have -- we don't have
10 enough.

11 MS. SCHMID: Yeah, we have them. We have
12 them. We'll get them to you.

13 MR. VASTINE: And now one of the key
14 elements -- I going to just talk about three little
15 elements here briefly -- one of the key elements in
16 our platform in a sense is transparency, regulatory
17 transparency, and this is essentially the
18 internationalization, if I could put it bluntly in
19 this context, in this forum. This is the
20 internationalization of the APA, the Administrative
21 Procedures Act that we all live by in our government.

22 It provides for notice and comment. It

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1 provides for publication. It provides for just the
2 standard sorts of disclosure, transparency, rights to
3 comment, rights to respond, licensing processes that
4 we take for granted in our government.

5 Many of these were actually adopted in the
6 Chinese accession, and I understand that the Singapore
7 agreement contains good transparency commitments in
8 financial services, and we hope horizontally. I mean,
9 if they accepted it for financial services, why
10 wouldn't they accept it for all services?

11 So we hope that the Singapore agreement
12 will be a great benchmark on transparencies. It's
13 very, very important, and it's the only way we're
14 going to get this is bilaterally. We're not going to
15 be able to convince all those folks in Geneva, all of
16 those countries to do it because it's so foreign.
17 These practices are so strange to most people.

18 About five countries maintain U.S. quality
19 or four other countries maintain APA style, very high
20 quality transparency standards. The European
21 Commission does not, for example, and has been very
22 slow to press for transparency in the GATT.

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1 So these bilaterals are really important
2 in achieving, and they're going to take a lot of hand
3 holding, capacity building to help Moroccans, for
4 example, understand what this means.

5 A lot of them think that we want them to
6 clear their regs. with us, that that's what this
7 means. That's not at all the case. It's a procedure
8 whereby -- well, you know how it works.

9 So two other key areas: financial
10 services, telecommunications. The schedules here are
11 congested there. They begun liberalization in
12 telecoms, but nowhere fast enough. I've singled these
13 two out because if you want to develop a modern
14 economy, you have to develop a modern
15 telecommunications infrastructure in order to
16 participate and link with the world, with the
17 information society, with the information economy, and
18 you have got to have efficient financial services that
19 supply capital, that mobilize capital in country and
20 permit foreign direct investment to come in, to
21 stimulate foreign direct investment and apply it to
22 the development needs of Morocco.

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1 Now, phase-ins. Phase-in of commitments
2 and services is something that I don't think -- well,
3 it certainly is -- okay. It does exist in the tariff
4 schedules, but the phasing in of commitments has been
5 something that has been accepted in the GATTs and
6 should be used here.

7 We recognize fully that the
8 liberalizations we seek, very complete
9 liberalizations, would require dramatic changes in an
10 economy like Morocco's, but rather than lower our
11 objectives for an agreement with Morocco, for example,
12 and other similar poor economies, we should encourage
13 strong commitments, but with phase-in periods; be
14 literal in our use of phase-in periods, not too
15 liberal. It can't be too long because then it's
16 self-defeating, but here's an example where we could
17 use them well.

18 I had the great pleasure of having lunch
19 today with Renaldo Rigero, and so I said I was going
20 to be testifying, and he came here, and he was
21 discussing with a group of people this FTA free trade
22 area, bilaterals in the United States, you know, that

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1 concerns Europeans so much.

2 And I said, "So I'm going to go testify
3 about Morocco free trade area. You know, is it really
4 realistic to ask Morocco to make these sweeping
5 changes, commitments in services in key areas like
6 financial services, completely open their banking
7 sector, the financial sector to foreigners?

8 And he said, "Absolutely." He said, "Go
9 for it."

10 But the bottom line with him is that we
11 use this to build toward a successful Doha round; that
12 the U.S. FTA strategy in the Morocco case
13 particularly, because it's the first one with a really
14 developing country, true developing country; that this
15 case is an extremely important case, extremely
16 relevant to Doha because if Morocco can do this and if
17 we can help them do it through capacity building, we
18 can demonstrate to so many other developing countries
19 that it's possible to make these commitments and that
20 they will benefit from it.

21 So I think that's the message.

22 CHAIRPERSON SURO-BREDIE: Thank you very

1 much, Mr. Vastine.

2 First question by USTR.

3 MS. NOVELLI: Sorry about mode three. I
4 know that there are four.

5 MR. VASTINE: Oh, good.

6 MS. NOVELLI: I know the ones, but --

7 MR. VASTINE: I just thought you would
8 know. I like talking about the modes.

9 MS. NOVELLI: I don't know which number
10 goes with which one.

11 MR. VASTINE: It's really one of the few
12 areas of expertise I have here.

13 (Laughter.)

14 MS. NOVELLI: I wanted to ask you about
15 when you were talking about telecom and financial
16 services and particularly in telecom where I know
17 there has been some concern about the commitment of
18 Morocco to truly, you know, be open and have a
19 transparent regulatory system.

20 You know, they sort of started off really
21 well, then their telecom person has sort of resigned
22 for other pastures, et cetera. I mean, can you

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1 elaborate on that?

2 I don't know if that's a fair question,
3 but it would be helpful to know when you say they
4 haven't liberalized fast enough in those areas.

5 MR. VASTINE: Well --

6 MS. NOVELLI: Can you elaborate on what
7 they should be doing, you know, faster and what we
8 should be pressing for?

9 MS. SCHMID: From speaking with our
10 members and from looking at the materials that are
11 published on this issue, Morocco certainly has taken
12 steps, and they've established an independent
13 regulator.

14 The question is: really giving the
15 regulator the authority to, for example, implement
16 anti-competitive practices, for example.

17 Also, it's a question of implementing the
18 regulations they've adopted. They do have foreign
19 market entrants in telecommunications from Europe.
20 They've got quite a few of them, but our members have
21 very little investment so far in the market, and
22 they're not, frankly, paying that much attention to it

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1 yet.

2 However, what they're looking for is like
3 in many developing countries a strong, independent
4 regulator, and they need to fulfill on that, finish
5 that process.

6 MS. NOVELLI: Do you think that if that
7 happens -- I mean are companies not interested because
8 they don't think that that exists or just because it's
9 a smaller market?

10 MS. SCHMID: They've seen in their
11 experience that the process has been moving slowly,
12 and I think they want to see the process move a little
13 bit quicker so that they don't have to deal with all
14 of the problems of monopoly telecom providers still
15 colluding with the regulator. That's not necessarily
16 independent.

17 MS. NOVELLI: And what about on financial
18 services?

19 MS. SCHMID: Well, on financial services,
20 I think that's a unique.

21 (Laughter.)

22 MR. VASTINE: Passing the ball back and

1 forth here.

2 When you say -- what about financial
3 services?

4 MS. NOVELLI: You had said, you know, they
5 haven't done enough. They need to do more.

6 MR. VASTINE: They have a horizontal
7 limitation across all of the categories of financial
8 services.

9 MS. SCHMID: What they have done, what
10 they have done, if I can just jump in here -- sorry,
11 Bob.

12 MR. VASTINE: Why don't you just let me
13 finish?

14 MS. SCHMID: Okay.

15 MR. VASTINE: -- is horizontal limits
16 which insure -- taken all together try to insure local
17 control. They have done and some of the reforms they
18 have launched have been good, but still at least in
19 the GATT schedule, they have taken exceptions to their
20 otherwise bound mode three commitments.

21 To their bindings in mode three, they've
22 got this horizontal exception which limits access.

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1 MS. SCHMID: And structurally they have
2 begun to privatize three national banks, but they're
3 still going through that process. So I think it was
4 even mentioned in a previous testimony. they put the
5 legislation into law, but it's really a question of,
6 okay, when are they going to implement it.

7 So this is the with privatization of their
8 national banks, but they certainly at least in their
9 GATT schedules, they have made significant commitments
10 in establishment in mode three in financial services,
11 but they've left much unbound in mode one and mode
12 two.

13 And because of the economy, because of the
14 information economy, because of electronic commerce,
15 these two modes, cross-border trade is going to become
16 more and more important. So they will have to open
17 their market there.

18 So it's moving, but it's moving very
19 slowly.

20 MS. NOVELLI: Thanks.

21 CHAIRPERSON SURO-BREDIE: Did you have a
22 question?

1 PARTICIPANT: Cathy just asked basically.

2 CHAIRPERSON SURO-BREDIE: Yeah.

3 MR. BELL: I have another.

4 CHAIRPERSON SURO-BREDIE: USTR then.

5 MR. BELL: You mentioned the need for the
6 Moroccans to make these strong commitments and that
7 there needs to be a corresponding effort to provide
8 some kind of technical assistance. I was wondering if
9 you could elaborate on that, and also, in particular,
10 if there are any types of programs that your
11 organization also provides in terms of technical
12 assistance for countries to meet these types of
13 obligations.

14 MS. NOVELLI: And can I add to that a
15 question about how -- are there examples in other
16 countries where, you know, there's been a success with
17 certain kinds --

18 MS. SCHMID: Sure.

19 MS. NOVELLI: -- of technical assistance?

20 MS. SCHMID: Sure. Do you want me to
21 answer?

22 MR. VASTINE: No. We have -- I'm also

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1 Chairman of the Industry Sector Advisory Committee for
2 Services, and there and in CSI we have worked on this
3 not as much as we'd like, but considerably.

4 In the ISAC, we're trying to put together
5 a compendium of examples of cases where associations
6 and companies are providing various forms of technical
7 assistance.

8 This does take place in the insurance
9 sector. The insurance sector has an International
10 Insurance Foundation that provides technical
11 assistance along with Commerce Department and very
12 frequently in Eastern Europe, and those kinds of
13 things are going ahead.

14 In, let's say, the case of China
15 accession, it's not really accession related. In the
16 case of our company's efforts to develop their
17 presence in China and secure licenses to do business
18 with China, there have been the opening of various
19 institutions in China, like the Chubb School of
20 Insurance in Shanghai and other such examples where
21 companies have specifically funded -- funded specific
22 educational institutions, programs.

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1 And that has now become a part of one of
2 the -- it has become a department of one of the
3 universities, a good university.

4 So there are just lots and lots of
5 examples, but I don't know that anybody has got them
6 all in a book anywhere.

7 Now, what else we've done is we've come up
8 with our own internal statement, policy statement, on
9 capacity building, frustrated by a whole year's worth
10 of effort to try to get AID -- I'm not knocking them,
11 but it's just they haven't been able to do it -- to
12 come up with what we consider the strategy for
13 capacity building in services.

14 We came up with our own strategy, and now
15 I have to remember it. It has four points.

16 The first point is that we help foreign
17 countries to develop the ability to negotiate, you
18 know, to negotiate in services. I mean, what's mode
19 four?

20 The second one is to help them to identify
21 their export markets in services because believe it or
22 not, some countries are developing an export interest

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1 in services. Certainly China is doing it.

2 Thirdly we want to develop -- and this is
3 really the key -- I think this is a very key area, and
4 you'll see in a minute why -- we want to help develop
5 best practices in regulation and regulatory structures
6 which permit the financial services sector to operate,
7 permit there to be a securities market, permit there
8 to be -- the need to have a securities regulator.

9 How does Morocco establish a securities
10 regulatory? Where does it go to learn how to do that?
11 Who is the teacher? Who provides the institutional
12 model, that kind of thing?

13 So it's those sorts of -- that's really
14 where I think the rubber hits the road in these
15 agreements. We would like to see this agreement
16 because it's with Morocco have a Doha related capacity
17 building chapter, a serious big annex or appendix or
18 whatever that commits the United States to provide
19 state of the art, what we consider to be state of the
20 art regulatory best practices.

21 That would include transparency, but it
22 would certainly include how do you regulate the

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1 securities market, how do you regulate an insurance
2 market, and here the key is safety and soundness to
3 protect the consumer. It's not what you're going to
4 sell your insurance policies, what the premiums are
5 going to be or what the products are going to be.

6 So it's directed at providing --
7 regulation that's directed at providing competition in
8 the market or what some people call pro competitive
9 regulatory reform.

10 Now, if you're getting a really tough
11 question to ask me, I'm going to be really upset.

12 (Laughter.)

13 MR. VASTINE: He's for mode four. He went
14 back to the ITC. He fled from USTR, but he did great
15 work in mode four, well, and it's a complement to your
16 organization.

17 MS. NOVELLI: On that last quote that you
18 just made --

19 MR. VASTINE: Yes.

20 MS. NOVELLI: -- have there been programs
21 like that that have been successful that we could look
22 to as models, you know, where people have trained,

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1 you know, how do you start a securities market, you
2 know?

3 MR. VASTINE: Well, yes, I'm sure there
4 have. I know there have.

5 Oh, look. You know what? I just
6 discovered something. The Treasury Department has 200
7 people under Deputy Assistant Secretary Fall, 200
8 people.

9 CHAIRPERSON SURO-BREDIE: He's been around
10 for ten years.

11 MR. VASTINE: Yeah, nobody knows about it,
12 you know. I was told that it took the Under
13 Secretary a full year to find out that he actually
14 employs 200 people. I mean, it's astonishing. The
15 Treasury has an extraordinary outreach to foreign
16 central banks.

17 In Russia recently I met a very, very
18 brilliant woman who had worked with David Numey at the
19 Treasury and who had been seconded to the central bank
20 and now was working for an insurance company, INA, I
21 think, or ING, somebody.

22 And so all you have to do is get the

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1 Treasury to open its books, and you'll find lots of
2 examples. As a former Treasury official, I can speak
3 candidly about that.

4 (Laughter.)

5 CHAIRPERSON SURO-BREDIE: Do you have a
6 planted questions?

7 MR. LEAHY: I have a question from the
8 floor obviously here.

9 MR. VASTINE: I knew it.

10 MR. LEAHY: One is we seek a clarification
11 of your statement earlier about services comprising 54
12 percent of the total GDP. Was that total GDP or
13 private sector GDP?

14 MR. VASTINE: I'd have to go --

15 MS. SCHMID: It's total.

16 MR. VASTINE: Is it?

17 MR. LEAHY: Total?

18 MR. VASTINE: It's total gross domestic
19 product. Excuse me. It's a statistic that comes out
20 of the World Bank. They have done an analysis
21 actually of all WTO members' GDP over the last ten
22 years.

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1 And we used it to compare the percentage
2 of services versus the percentage of agriculture and
3 GDP, and we find consistently that GDP represents at
4 least 50 percent of most developing economy markets.

5 And this statistic is not widely known,
6 and it's very important.

7 MR. LEAHY: Thank you.

8 And the second question was: are your
9 interests in the liberalization of financial services
10 market only or did they include the liberalization of
11 the Moroccan capital account?

12 MR. VASTINE: Oh, well, I think, you know,
13 Under Secretary Summers used to say, you know -- no,
14 Secretary Summers, now President Summers.

15 (Laughter.)

16 MR. VASTINE: When he was Under Secretary,
17 he used to say in the 1997 financial services
18 negotiations in the WTO that we have to be clear what
19 we're negotiating and what we're not negotiating.
20 We're negotiating market liberalization. We're not
21 negotiating liberalization of exchange rates, capital
22 flows, capital markets. We're into trade

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1 liberalization in the WTO. We don't do the other
2 stuff.

3 MS. NOVELLI: Can I just ask one more
4 question?

5 MR. VASTINE: Please.

6 MS. NOVELLI: When you were talking about
7 your visa proposal, is the proposal something that
8 already is provided for in U.S. law or would we be
9 needing to also change our --

10 MR. VASTINE: No, we would have to
11 regrettably change our law to accomplish it, and I
12 think that would be extremely difficult in the current
13 environment. Security issues and employment issues,
14 and I'm told -- I've heard, but I don't know the
15 details yet -- that the effort to provide for a slight
16 liberalization of our practice in the Singapore
17 agreement was just clobbered by the Hill.

18 MR. BIRDSEY: Could I follow up?

19 MR. VASTINE: By the Senate Immigration
20 Committee.

21 So I think the Singapore experience has
22 not been a good one, and if industry wants to make

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1 progress on this, we're going to have to do a much
2 better job of securing our base on the Hill.

3 MS. NOVELLI: Okay. Thanks.

4 MR. BIRDSEY: Could I just follow up on
5 that?

6 What's the problem with the current (b)(1)
7 or L visa? Why do you need a new visa category? Is
8 it because it may take too long to process?

9 MR. VASTINE: Well, there's a couple of
10 issues. First of all, the speed of processing is
11 extremely important because, I mean, here's the
12 situation. You have a global company like Accenture,
13 PricewaterhouseCoopers. You can imagine the others,
14 EES, IBM. These are global players, AT -- I mean,
15 just the whole group, I mean, AOL Time Warner
16 certainly.

17 They need to respond to the demands of
18 their clients, and they work on the basis of team
19 building. So I have this nephew who's a double major
20 from MIT, and he works for Accenture, and he has an
21 apartment at Harvard -- I mean in Boston, but is
22 picked, you know, to go on assignments six months,

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1 eight months, four months, three months, and he has to
2 fly every weekend somewhere. You know, to Bloomington
3 he's been going because he's been building an intranet
4 for a big company.

5 But these teams have to be assembled very
6 quickly to respond to a new contract or to service a
7 contract that Accenture has with a foreign or domestic
8 provider, and sometimes it requires taking guys like
9 my nephew and sending them to Paris or Marakesh, and
10 sometimes it takes getting somebody from Singapore to
11 come to Bloomington because these companies have
12 experts all over the world, and their human resources
13 are scattered everywhere.

14 And when they need somebody who is their
15 expert on encryption and certain sorts of Internet
16 applications, they'll go to Singapore and say, you
17 know, "Get your fanny to Bloomington."

18 Well, if you've got lengthy visa
19 processing delays, you're going to lose the business,
20 and this has happened a lot. So it's a question of
21 employment really for U.S. companies, and often
22 employment of Americans. It's not a matter of

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1 providing employment for unrelated, anyway,
2 foreigners, which is maybe not answering your
3 question.

4 MR. BIRDSEY: But there's been some
5 movement to start instituting expedited processing
6 fees.

7 MR. VASTINE: Well, no, that's --

8 MR. BIRDSEY: Is it a problem where you
9 can do under a L and a B, or is it really just the
10 speed?

11 MR. VASTINE: What we wanted to do, in
12 fact, one of the things we wanted to do in the
13 Singapore agreement was to provide or in the future
14 agreements -- I don't know what happened to Singapore
15 -- was to sort of bind in a way that quick processing
16 practice because we do have a procedure whereby if you
17 pay \$1,000 -- Vladimir, how much do you pay?

18 PARTICIPANT: About 1,000.

19 MR. VASTINE: One thousand dollars. We
20 just got an (h)(1)(B) visa for Vladimir, who by the
21 way is a student of Geza Feketekuty's who is with us
22 for a year from Russia, from Monterey --

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1 CHAIRPERSON SURO-BREDIE: He still has to
2 take out a visa?

3 MR. VASTINE: But it -- pardon me?

4 CHAIRPERSON SURO-BREDIE: No, I was just
5 kidding.

6 (Laughter.)

7 MR. VASTINE: Say what? I didn't hear.

8 CHAIRPERSON SURO-BREDIE: He still has to
9 get a visa?

10 (Laughter.)

11 MR. VASTINE: But I've got a visa.

12 Okay. Let me be very clear about this for
13 Vladimir's sake.

14 (Laughter.)

15 MR. VASTINE: He got his student visa and
16 he had what, one year training period?

17 PARTICIPANT: Yes.

18 MR. VASTINE: And --

19 CHAIRPERSON SURO-BREDIE: Before we pick
20 him up.

21 MR. VASTINE: So that's about to come to
22 an end, and a couple of months ago he said would we

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1 sponsor him for an (h)(1)(B). He got it in three
2 weeks, but you know, with this accelerated processing
3 we couldn't believe it.

4 PARTICIPANT: And it's no guarantee.

5 MS. NOVELLI: For the \$1,000, yeah.

6 MR. VASTINE: Yeah.

7 MS. NOVELLI: There are no guarantees.

8 MR. VASTINE: But I'm still not answering
9 your question because intercorporate transfers are one
10 thing, and transfers of consultants who are not intra-
11 company, who are not related to the same company or
12 another thing, and these are the two types of
13 professional, the two types of expert that we want to
14 cover to provide some sort of visa arrangement for.

15 And we get in trouble by calling it a
16 special visa because maybe that sounds -- but you
17 know, it sounds like you know the immigration
18 categories, the immigration process.

19 MR. BIRDSEY: I'm just wondering, you
20 know, if setting up a category means a new law.

21 MR. VASTINE: Yeah, it does.

22 MR. BIRDSEY: If you could do it within

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1 the existing category, but just speed things along,
2 that would be a lot easier.

3 MR. VASTINE: That is a lot better, and
4 frankly, I think that's the only approach that's going
5 to work, and we have yet to be convincing on the Hill.

6 So that was a long rambling.

7 Aren't you guys tired?

8 CHAIRPERSON SURO-BREDIE: Thank you very
9 much.

10 MR. VASTINE: Thank you.

11 CHAIRPERSON SURO-BREDIE: This is hearing
12 is adjourned.

13 (Whereupon, at 4:56 p.m., the public
14 hearing in the above-entitled matter was adjourned.)
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